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ABSTRACT

Testimony and prepared statements provide insight into the manner in which Indian affairs will be administered under the proposed 1982 fiscal year budget and compares the proposed innovations and the implementation of assistance to the Indian tribes with a general Federal policy to promote tribal self-determination. Probably because of the fragmentation of the Federal delivery system, the proposed budget reductions to Indian programs total $1,118,745,000, or a 35% reduction of a planned budget of $3.1 billion. Agencies including the Bureau of Indian Affairs, Indian Health Service, Office of Indian Education, and Department of Housing and Urban Development propose to give Indian tribes a greater role in allocation of financial resources and additional flexibility in meeting their particular reservations' needs. Appendices include statements by the Duckwater Shoshone School Board, Mississippi Band of Choctaw Indians, National Congress of American Indians, and Penobscot Nation; correspondence from the Fort Belknap Community Council, Native American Rights Fund, and Papago Tribe of Arizona; and Bureau of Indian Affairs and Department of Housing responses to written questions. (NEC)

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OVERSIGHT OF INDIAN PROGRAM BUDGETS

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

REVIEW OF BUDGET SUBMISSIONS OF THE BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES; OFFICE OF INDIAN EDUCATION, DEPARTMENT OF EDUCATION; AND INDIAN HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MARCH 23, 1981

WASHINGTON, D.C.

RC 012950

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OVERSIGHT OF INDIAN PROGRAM BUDGETS

MONDAY, MARCH 23, 1981

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:18 a.m., in room 1202, Dirksen Senate Office Building, Senator William S. Cohen (chairman of the committee) presiding.

Present: Senators Gorton, Melcher, and Inouye.

Staff present: Tim Woodcock, staff director; Pete Taylor, general counsel; Jo Jo Hunt, staff attorney; Jane Wrenn, professional staff; John Mulkey, professional staff; Tina Kanemoto, professional staff; and Max Richtman, minority counsel.

Senator COHEN. The hearing will now come to order. I would like to thank all of you for coming here today for this hearing on the effect of the proposed budget for fiscal year 1982 on the administration of Indian affairs by the United States.

I am sure that everyone in this room is aware that the proposed budget for fiscal year 1982 differs significantly in many respects from its recent predecessors.

The budget has been tailored to counter the seemingly endless rise in inflation and the harm that it is doing to our national economy. We have, of course, reached this difficult state of affairs through a combination of a variety of factors. Chief among them is the consistent failure of the executive and legislative branches of the Government to balance the national budget. It is this failure that the proposed budget addresses through numerous reductions in Government spending.

The reduction in Federal Government services that will accompany the budget cuts affect all of us. American Indians, of course, expect to share in this reduction of services to the same extent as all other Americans.

Today, we hope to ascertain the impact on American Indians of the reduction, both of those programs that are specifically targeted for them, such as the Indian housing program, and those that are of general applicability but which are important to them.

The committee also intends to gain insight into the operation and proposed administration of assistance to Indians and Indian tribes. By example, I would refer to the proposal to implement a process whereby several Indian programs within the Bureau of Indian Affairs are to be made available to Indian tribes in a manner similar to that in which a block grant is made available to a State.

Finally, I should note that the specific purpose of this hearing is to provide the committee with information that we need to file a supplemental report to the Committee on the Budget. This supplemental report will complement our March 15 report and will reflect a greater understanding of the particulars of the proposed budget.

It is not our intent to question the assumptions on which the entire fiscal year 1982 budget is based; rather, it is to gain a better appreciation of the manner in which the Indian affairs will be administered under the budget and to compare the proposed innovations and the implementation of assistance to the Indian tribes with a general Federal policy to promote tribal self-determination.

Before closing, I would like to thank the witnesses who were able to come this morning and for making yourselves available to us on such short notice. We appreciate the efforts that you have made and the constraints under which you are working.

Before turning to our group of witnesses, I would like to inquire of my colleagues as to whether there are any opening statements which they wish to make. [No response.]

Will the first panel of witnesses come to the table, please? The Bureau of Indian Affairs is set to testify first.

Our first witness is going to be Mr. James Canan, the Acting Deputy Assistant Secretary for Indian Affairs for the Bureau of Indian Affairs, U.S. Department of the Interior; Dr. Earl Barlow, the Director of the Office of Indian Education; and Mr. Bill Babby, Director of the Office of Administration.

Senator Cohen. Please proceed, Mr. Canan.

STATEMENT OF JAMES CANAN, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY BILL BABBY, DIRECTOR, OFFICE OF ADMINISTRATION, DEPARTMENT OF THE INTERIOR; AND DR. EARL BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION, DEPARTMENT OF THE INTERIOR

Mr. Canan. Thank you, Mr. Chairman. My name is James Canan. I am Acting Deputy Assistant Secretary for Indian Affairs. Mr. Bill Babby, on my left, is Acting Deputy Commissioner, and Dr. Earl Barlow is Director of the Office of Indian Education Programs.

I believe that you have a prepared statement from us, and if it is all right with you, sir, I will just summarize it.

Senator Cohen. Without objection, your prepared statement will be made a part of the record at the end of your testimony.

Mr. Canan. I will try to cover our statement briefly. This statement covers our proposed budget and the reductions that have been made in that budget in the transmittal of March 10. Just to give a few figures, our budget in January was $1,055,000, Federal dollars, and that has been reduced to $979 million this time; that is a reduction of about 7 percent. We felt that we were treated very well by the Department and the administration, in view of the fact that the total Interior budget was reduced by almost double that percentage. So, Indian programs have faired pretty well considering the fact, as you mentioned, Mr. Chairman, that all of us had to take some reductions.

The main new thrust which I think a lot of people are talking about is what we refer to as our consolidated tribal governmental programs. This is an effort on our part to bring together, in one budget activity, a number of programs, all of which are very much a function of the local governments which we consider the tribes to be. We have, therefore, brought together from a number of different activities, this group of programs and put them together in such a way that the tribes will have a great deal of flexibility to determine just how they want to allocate the dollars. In that sense, this has many of the attributes of a block grant.

The proposal also envisions, and this is not part of the budget necessarily, that we will be revising our regulations that are associated with Public Law 93–638 to permit a grant mechanism to be used in allocating this money to the tribes.

The tribes will be able to determine, within that total figure, exactly how they want to allocate the money for these programs, all of which are important to them, but some will have a higher priority. It was our feeling that rather than for us to designate specifically the amounts, and any reductions in those amounts, that this was better left to the tribal governments to make those decisions, since some programs will have a higher priority for one tribe than they will for another.

There may be more questions on the block grant program because it is a new concept, although it is one that we have talked about within the Bureau for a number of years. Many of us feel that it is a major step forward in recognizing the role of the tribal governments, strengthening that role, and giving them more opportunity to determine how money can best be spent at the local level.

Our statement then goes on to cover those increases that are actually present in the budget from 1982 over 1981. I will just summarize that by saying that the principal increases are in education, basic school support formula, and in our trust and natural resources areas, which are always of highest importance to the tribes. In developing our 1982 budget, the tribes had an opportunity to make some input into it and in almost every case they placed a very high priority on resource programs. So, this is reflected in the increases that have remained intact in our budget, both in the basic education support and in the resource development programs.

Finally, we discussed the reductions that had been made and the basis for those reductions. In moving toward the consolidated program, a number of those programs are ones in which there is an opportunity to operate at flexible levels. Also, there is other money coming from other Federal agencies for some of these purposes. Before moving on this we did find out as best we could, within a limited time frame, what was happening in the other Federal agencies so that we could be certain that we were not making double reductions. I think we are fairly sure that these programs can be combined with other programs from other agencies to give the tribes more flexibility.

We also are reducing construction dollars for facilities improvement and we intend to make some substantial reductions in our administrative operations. We feel that as a result of a number of activities, which have been referred to as our management improvement program, we have been able to determine a number of places in our administrative housekeeping operations where we feel we can make some significant reductions in the coming year. We have included those cuts in our budget reduction.

That is about the summary, Mr. Chairman, of where we are. I will be glad to answer any questions at this time.

Senator COHEN. Thank you very much. The fiscal 1982 budget justification includes or suggests that the block grant or consolidated program concept is going to enable the Bureau to eliminate about 400 positions. Is that correct?

Mr. CANAN. I think we are saying up to 400. We have to qualify it that way, Mr. Chairman, because we are continuing to operate under the provisions of Public Law 93–638 which gives the tribes the option of deciding whether they want to run the program or have the Bureau run it. It is entirely at their discretion. If the tribes opted to take over all of the programs, and many of these programs are already contracted, but if they took all of them then it would be a reduction of at least 400 positions. However, some of the tribes may decline to operate the programs and that is their prerogative under Public Law 93–638. So, it would be something less than that if some of the tribes decide that the Bureau is to operate the program.

Senator COHEN. How do these positions actually relate to the programs that are being consolidated?

Mr. CANAN. These are the positions, Mr. Chairman, that have been identified with those particular programs, at the agency level, at the area level, and the central office level. Whatever decision the tribes make, we are planning to reduce substantially, in fact, almost totally, the positions at the central and area office level except for what we believe is the minimum to maintain program management.

Senator COHEN. So, in other words, these positions that will be cut will be located in the D.C. area?

Mr. CANAN. A number of them will be at the central and area office level, yes, sir. Mr. Babby has handed me a figure here of 35 at the central office level, not all of which can be taken out, but the central and area office level positions would be reduced very substantially. At the agency level it would depend on the decision of the tribe.

Senator COHEN. In the fiscal 1982 justification for the 10 programs that are now being consolidated, it indicates a decrease in funding of some 25 percent.

Mr. CANAN. Correct.

Senator COHEN. How much of this savings is based on cuts in administrative overhead and how much actually represents a decrease in the level of program delivery?

Mr. CANAN. I am not sure that we can give you a final answer on that, Mr. Chairman, at this point.

There will be a substantial savings at the central and area office level. My best estimate at this time is that we are talking about $151 million at the agency level and that would be reduced to $120 million. So that part of it would be a reduction at the program level. That is something less than the 25 percent, so that part of it would be a reduction. The other $10 million, I think, under your definition, would be savings.

Senator COHEN. You talk about the decrease in funding of 25 percent and that consolidating these 10 programs is going to eliminate

400 jobs or positions; that we are going to save approximately 25 percent of the budget. The question I have is, is it coming out of the administrative end or the delivery end?

Mr. CANAN. What I believe I am saying is that $10 million of that $40 million reduction will come from program management savings. The other $30 million would be a reduction in the programs themselves at the agency level.

Senator COHEN. It is not entirely clear to me, but we will go on and pursue that later.

Some of the programs that are blocked, particularly education programs, not only support those on the reservation but support those off the reservation. How does the consolidated approach take that into account?

Mr. CANAN. Senator, all of our programs follow the definition of meeting the needs of the Indian people on or near the reservation, within, what we refer to as our service population. So, that is the area that would be served by the tribal government. None of our programs are designed to meet the needs of the urban Indian groups who are separate from the service populations of the reservations. So, in every case, I believe, these programs will be primarily targeted at the reservation level, including by definition, on or near the reservation boundaries.

Senator COHEN. Would those education programs that currently serve those who are not living on or near the reservation be discontinued under this approach?

Mr. CANAN. Except to the extent that the tribal government would continue to serve its members who may live anywhere. That is an option open to them.

Senator COHEN. When do you expect to have the final regulations proposed with respect to the consolidated program itself?

Mr. CANAN. The requirements that we have, in order to amend regulations, are such that we may not even have them ready in time to use them initially in October when the fiscal year begins.

Senator COHEN. How are you going to make cuts without having the regulations?

Mr. CANAN. Well, if the budget activity is set up the way it is, we can still go to the tribes. We can still get their input. We can still use our existing contracting regulations to accomplish much the same purpose.

We are really talking about two separate things here. One is the budget activity; the consolidation of these programs under one budget activity with the option to the tribes of determining exactly how they want that money allocated. That can go forward if the Appropriations Committees agree.

The other part of it is the mechanism for getting the money to the tribes and what we want to do is provide this grant mechanism, which will be much simpler and much easier for the tribes and for the Bureau to service.

We are moving as fast as we can. We have task groups working right now on getting those regulations rewritten. But the process is such that it involves a lot of consultation with the tribes and periods of publishing and so forth. We may not be able to get that job done in time to use it, for the contracts that will be let, in September and October. But that part of the operation could still go forward and we could move ahead with our block grant budget system in any event, assuming the Appropriations Committees agree.

Senator Cohen. Both the 1982 proposal to phase out the tribal management corps and the business enterprise development program were designed, on the one hand, to increase tribal management capability, and second, to locate business enterprises on reservations themselves. What would be the justification for phasing out these two programs?

Mr. Canan. Mr. Chairman, we phased out the money in the tribal management corps program because we feel that we have adequate resources within this total operation to provide the money. The tribal management corps concept will continue, but we will simply move that money into the total operation. We have the resources to take care of that to the extent that the tribes want to use it.

Senator Cohen. What about the business development grant?

Mr. Canan. There is still some money in the budget for that purpose. It is a reduction of about one-half of the program of last year but there is still money there for the higher priority needs.

Senator Cohen. You also propose to eliminate some $600,000 from a new initiative in forestry. What is the initiative in forestry that is being dropped?

Mr. Canan. Mr. Chairman, this was a special initiative to start a new forest inventory program. We have stepped up our forestry programs very substantially in the last 3 or 4 years. We started many new operations in the forestry field. We have a substantial increase in our forestry budget, even with that initiative being removed, and so we feel that we are probably taking on as much as we can in the way of new programs in the forestry field this year.

We will still be moving forward on the idea of developing inventories of all our natural resource programs; minerals, forestry, and water inventories. We have money in the budget and I think we have enough to keep us plenty busy this coming year getting inventories, both for the purposes of the Bureau and to provide the tribes with information about their resources.

Senator Cohen. You said that you were concerned about the interrelationship of various functions. Water and housing, I assume, fall in that category. The one thing that I would like to try and get a clearer picture of today is the interrelationship between the different agencies that are trying to consolidate these various functions. For example, HUD is not seeking any funds in the fiscal 1982 budget for housing on reservations. Indian Health Service is not seeking funds for water and sewage hookups. Now BIA does have some role in housing and I would like to get a better understanding of what that role is.

Mr. Canan. Mr. Chairman, our role initially was that we provided housing officers on the reservation whose job it was to work with the tribal government to develop a tribal housing authority and get started in the whole housing program. More recently those positions have almost all been contracted to the tribes. Under the interagency agreement that we have had with HUD and the Indian Health Service, our role has been primarily to provide any necessary street or access roads for any housing developments. We still have money available for that purpose.

Senator Cohen. In other words, HUD deals with new housing construction itself?

Mr. Canan. Yes, sir.

Senator Cohen. In this year's budget is there any money in HUD for the construction of new housing?

Mr. Canan. There is no new budget authority as I understand it, sir.

Senator Cohen. The same with respect to Indian Health Service, seeking no funds for water and sewage. Now, what is the role of BIA? Is it to simply provide new roads for houses that are not going to be built?

Mr. Canan. We had a slight cut, but not a very big one, in our road construction budget. The way our construction budget operates, we make that money available to the agencies and the tribes determine the priorities of road construction. However, we have an agreement with HUD and IHS that for any housing developments that are going to be developed in that year or the next year, that some of that money for construction will be used for the street development. Now, if it works out, and I hope that it does not, that there is no new development for housing, then that money at the local level would simply be used for other primary and secondary roads on the reservation system.

Senator Cohen. If you have HUD traditionally assuming the role in the construction of new houses; if you assume that there is no money and there will be no budget authority in HUD for new construction this coming fiscal year: that IHS will have no money for water and sewage hookups, what will be the role of BIA? Simply as a coordinator saying that if there are houses built by HUD, we will help build the roads. If there are no houses, we will use the money for other things? In other words, who is going to assume that function under this new consolidated approach?

Mr. Canan. Well, in every case I think that it becomes the tribe who coordinates. We have never assumed the role of being the coordinator for the other two agencies. We work with them and our responsibility is to provide the streets if a housing program is there, but we have never been in the role of coordinating the other two agencies.

Senator Cohen. I gather then that there is no money in HUD; there is no money in IHS; there is a reduction of $3 million in the road construction of BIA. Is that where we are in this particular budget?

Mr. Canan. Yes, Mr. Chairman. But that $3 million reduction is not in any way related to what is happening to HUD or IHS. That was just a basic decision that the roads construction program would have to take its cuts along with everybody else.

Senator Cohen. It had nothing pertaining to the HUD program?

Mr. Canan. Not in any way. No, sir.

Senator Cohen. The public service employment component of CETA at Labor and the economic development administration at Commerce are both being eliminated in fiscal 1982 and these two programs account for some significant degree of employment on Indian reservations. Have you made any estimates of the probable impact of the loss of these two programs on the Indian populations?

Mr. **Canan**. Mr. Chairman, we have not been able to get a firm estimate. We have been working with the Office of Management and Budget and, in fact, hopefully today or tomorrow, they will have a complete tabulation of the cuts on Indian programs in all of the agencies. I had hoped that we would have that this morning but there is still some work being done on it.

We are probably not in the best position to discuss exactly what the impact of CETA cuts would be. I have noticed that apparently the outlay figures will be something up to $100 million less in 1982.

The outlay figures for EDA are only slightly reduced. Apparently there is no new authority in EDA but it appears that they will still be spending substantial amounts on the reservation during fiscal year 1982. We are not clear on what the impact in EDA might be.

Obviously, $100 million or less in money for jobs is going to have a substantial impact. It is probable that the tribes, in using their programs, will try to absorb some of that job problem. Certainly, we are prepared at this point to do whatever is necessary in terms of our general assistance program. We have not put any more money in our general assistance program but, if we need to, we must.

Senator **Cohen**. That was my next question. If, in fact, it shows there will be significant increases in your general assistance load responsibility, where are you going to get the money?

Mr. **Canan**. From one of two sources. We will either have to dig deep and find some way to reprogram or come back in fiscal year 1982 for a supplemental. It is impossible at this point for us to get any idea what that impact might be. So, it would be very premature for us at this point to start talking about additional welfare funds.

Senator **Cohen**. When do you expect that report to be completed?

Mr. **Canan**. I think that they are hoping to get it finished today, sir.

Senator **Cohen**. Will it be made available to you, or to us?

Mr. **Canan**. Well, I understand that it is to be made available generally and we will certainly get it to you.

Senator **Cohen**. I have a number of other questions, but Senator Inouye, do you care to pose some questions at this point?

Senator **Inouye**. Yes; Mr. Chairman. I would like to follow up on your questions. On housing, apparently we are going to have about 22,000 houses without water and sewage?

Mr. **Canan**. Senator, I am not sure that I can speak authoritatively on the impact in the sense that it really is primarily a problem between HUD and the Indian Health Service.

Senator **Inouye**. You are not aware of this?

Mr. **Canan**. We are aware of the fact that this money has been taken out. Whether this will mean that there will be no money for water and sewer projects next year, or just how Indian Health Service will handle that, I guess I will have to leave that to Dr. Johhnson to discuss. I know from my discussions with him, that it is certainly going to have an impact.

Senator **Inouye**. Are you concerned?

Mr. **Canan**. Very much so. Yes.

Senator **Inouye**. I notice that we are cutting out any support for the Indian Health Service manpower program. How many Indian doctors do we have on the reservation?

Mr. CANAN. I am afraid I cannot answer that, Senator.

Senator INOUYE. Does anyone know?

Mr. CANAN. Dr. Johnson is in the audience. He is coming up soon.

Senator INOUYE. How many Indian doctors do we have?

Dr. JOHNSON. About 130.

Senator INOUYE. These are native Indians?

Dr. JOHNSON. That is right.

Senator INOUYE. How many more would the scholarship program have recruited? Do you have any idea?

Mr. CANAN. I will have to turn to Dr. Johnson again.

Senator INOUYE. I am sorry to have to take this up but I have to go on to another meeting so I must do it now.

I presume the justification for this phaseout is that there are other programs that can accommodate the Indians. Is that correct?

Dr. JOHNSON. That is correct. That is my understanding.

Senator INOUYE. Do you believe that the Indian student can compete with non-Indians?

Dr. JOHNSON. I think that the Indian students, Senator, have done quite well in school. In our particular scholarship program we have about a 75-percent retention rate in school. I believe they have competed quite well.

Senator INOUYE. Are these the non-Indian programs?

Dr. JOHNSON. These are the Indian students who have been supported by the Indian health scholarship program.

Senator INOUYE. What about the non-Indian scholarship programs. Have they done well there?

Dr. JOHNSON. I have no personal knowledge of their experience in other scholarship programs.

Senator INOUYE. That is where they are going to compete from now on, are they not?

Dr. JOHNSON. That is my understanding.

Senator INOUYE. Have you no idea that will be the outcome?

Dr. JOHNSON. No, sir. I do not.

Senator INOUYE. Not knowing what the outcome is going to be, do you support this?

Dr. JOHNSON. I think there is every reason to believe that in the design of the scholarship programs, the administrtaion is making every effort to assure that Indian students get ample opportunity to have training. I believe that.

Senator INOUYE. May I ask a general question of the panel here? In developing this budget that you have submitted to the past administration, and now the present, do you call upon the Indian nations and the tribes to make an input?

Mr. CANAN. We do, Senator.

Senator INOUYE. What sort of input do they provide?

Mr. CANAN. In developing our budget at the beginning of the planning year, we go to the tribes and ask them to indicate their priorities within certain parameters. We give them the best for the previous year and we ask them to indicate what their priorities would be if there were a reduction to 90 percent, then what their priorities would be then if we received 105 percent of that base, and then 115 percent of that base.

In this way we try to get the best input we can from the tribes as to what they consider their priorities for any increases in their programs, or, for that matter, the shift money from one program to another.

In fact, we are in the process of doing it right now for fiscal year 1983, so it is way in advance. This leadtime is another major reason why, when we became aware of the fact that some reductions had to be made in our total budget, we went to the block grant system as a way of giving the tribes additional input. Knowing that now we had to take some reductions, we felt that they would be in a better position to decide their priorities.

Senator INOUYE. This is what the Indians wanted?

Mr. CANAN. Well, I am sure that they, like all of us, would prefer not to have any reductions at all, but recognizing that some reductions are necessary, the general reaction has been good, yes, sir.

My contacts with tribal leaders have indicated that realizing the time constraints we were under and everything else, that they are glad that they are at least going to have some input on their priorities. So, I think it is what they prefer.

Senator INOUYE. Were tribal leaders given the opportunity to discuss these cuts with Mr. Stockman of OMB?

Mr. CANAN. Not to my knowledge, sir.

Senator INOUYE. Did you speak for them?

Mr. CANAN. We spoke for them on the basis of our knowledge of what their priorities had been in the planning process. In addition, we proposed the concept of the block grant in order to give them an opportunity to make additional input.

Senator INOUYE. Doctor, are you satisfied that we have enough phsyicians to care for the health needs of the Indian population?

Dr. JOHNSON. No. We have repeatedly testified before the Congress, and Congress itself in passing legislation has confirmed, that the availability of physicians and other health staff in the remote rural Indian reservations is considerably below that which is desired in that country. However, the budget which you see before you is not addressing any reduction in services.

One thing which was protected in making these adjustments in the budget request was the delivery of services as best we could, the retention of doctors, and nurses on the reservation level.

Senator INOUYE. Thank you, Mr. Chairman.

Senator COHEN. Thank you. Senator Gorton?

Senator GORTON. As a new member of the committee, I would like to go over with you and learn about the services to Indians, including money coming from trust funds. This budget will include about $1.4 billion for BIA and Indian services, is that correct?

Mr. CANAN. That is correct. But some of that is trust fund money.

Senator GORTON. What is the number of your client population?

Mr. CANAN. Senator Gorton, we will have a better figure on that as soon as the 1980 census is in. The best figure we are now using for our service population is 681,000 people. That is the figure of the Indian population on or adjacent to the reservations. It does not include Indian people away from the reservation.

If you took a figure of the total tribal enrolllment, it would be substantially different. I do not have that figure.

Senator Gorton. Did I understand your answer to the chairman to be that the primary concern and the primary program direction of BIA is directed at Indians on or very near reservations?

Mr. Canan. That is correct, sir.

Senator Gorton. We are going to hear, later on today, from HHS, Housing and Urban Development, and the Department of Education about additional programs which relate rather specifically to Indians.

Mr. Canan. That is correct.

Senator Gorton. Are there any other departments which have programs directed exclusively to Indians?

Mr. Canan. Well, none of these programs in the other departments are exclusively Indian. There is an Indian component. Obviously Indian Health is a special component of the Public Health Service. The CETA program has an Indian component, EDA had an Indian component, HUD has a special Indian component of their assisted housing program. These are programs that are available to all American citizens, but because of the special relationship with Indian tribes they have been established with a special Indian component within their organization.

Many of the other departments do have general programs with special Indian components. That is correct, sir. Then many of those same departments have other social programs to which Indians are eligible on exactly the same basis as other citizens.

Senator Gorton. When the budget speaks of 400 employees of BIA, that is 400 on what basis? How many employees does the Bureau have at the present time?

Mr. Canan. The figure is about 12,300, sir. They are permanent employees. We have others, up to about 17,000, including——

Senator Gorton. But the 400 is a reduction of permanent employees?

Mr. Canan. Yes, sir.

Senator Gorton. In other words, at least looking narrowly only at the Bureau of Indian Affairs, the proposed budget related to you and your client popalation amounts to about $2,000 per capita?

Mr. Canan. I had not figured it out quite that way.

Senator Gorton. Those are all my questions.

Senator Cohen. Senator Melcher?

Senator Melcher. I note in just a little review of the Indian housing programs, that in 1976 there was supposed to have been 86,500 Indian families who were identified as living in substandard housing. In 1979, the report of this committee on housing showed that 62,000 Indian families lived in substandard housing on reservations.

Tell me, is it still true, as a HUD 1978 report noted:

> Of all minority groups in our nation, American Indians living on reservation lands have the lowest income, the fewest economic opportunities, the highest mortality rates, the least education, and the worst housing.

Is that still true?

Mr. Canan. I do not know that every one of those statements is still true, Senator. I think the housing situation is certainly still one of the worst if you look at it in comparison to the Nation as a whole.

Senator Melcher. Well, the report continues:

> The housing needs remain a severely critical problem, despite HUD and BIA efforts in this area. In large part the current program is a direct consequence of the fact that program housing assistance resources have been insufficient to significantly reduce the sub-standard housing. A minimum of 60,000 new units are currently needed on Indian reservations.

Even assuming that it is cost-feasible to have another 30,000 units characterized by major structural deficiencies. Has this situation changed much? Are we still 60,000 units shy?

Mr. Canan. I think that one of the reasons it has not changed much, Senator Melcher, is that we have had an increase in the populations on the reservations because a number of Indian people who formerly lived in cities have returned because they were unable to find adequate jobs, and so forth.

This means that our efforts to attack that backlog are not making much headway.

I should indicate first that our principle housing program, referred to as the housing improvement program, is aimed at improving those houses that are substandard and bringing them up to standard. That has been the particular role of the Bureau of Indian Affairs; to try to repair and improve housing that is sub-standard, leaving the primary function of new housing to HUD.

Senator Melcher. I have some more questions that I would like to have answered for the record and I will submit them to you to respond for the record.

Senator Cohen. Without objection, we will have the questions and answers inserted into the hearing record.[1]

Senator Melcher. Dr. Barlow, how is a total figure for Indian school equalization found?

Dr. Barlow. Essentially, we are basing our requests on past experience, Senator.

Senator Melcher. I know that, but how do you get the total?

Dr. Barlow. Well, the Indian School Equalization formula is based on numbers of students, average daily membership, and their related needs are identified by the local school boards.

Senator Melcher. Which schools?

Dr. Barlow. These are Bureau funded schools. We have 224 of them.

Senator Melcher. Since the base amount per student is found by dividing the total amount by the number of weighted student units, what we are concerned with is that the process may be backward.

Dr. Barlow. I guess our greatest concern at the present time is that we were mandated by the Congress to develop our minimum academic standards and in the future these minimum academic standards will drive the formula. That will be the basis for our appropriations requests. These standards have still not been developed as of this time.

Senator Melcher. Do you have that authority yourself?

Dr. Barlow. To develop the standards; yes. This is what we are doing.

Senator Melcher. How long is it going to take?

Dr. Barlow. Hopefully, they will be finished by the spring of this year. We are doing some fiscal impact statements to get a figure of how much they will cost.

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[1] See appendix, p. 140.

Senator MELCHER. Please keep us advised of that.

I have some more questions that I would like to submit to you for the record if you could respond for the record.

Dr. BARLOW. Yes, sir.

Senator COHEN. Without objection, Senator Melcher's questions and Dr. Barlow's answers, will be inserted into the hearing record.[1]

Senator MELCHER. Dr. Barlow, what is the current status of the Institute of American Indian Art and of the Albuquerque Indian School? Is the Art Institute still being shared by the public high school students?

Dr. BARLOW. Yes, it is.

Senator MELCHER. How is it working out?

Dr. BARLOW. The Albuquerque Indian School has students from grades 10, 11, and 12—about 73 students—at the Santa Fe campus, and with that we have about 120 students in the American Institute of Arts program. According to my latest reports, it is working satisfactorily. However, the enrollments at the Institute, I am advised, are necessarily limited because of the impact of the students from the Albuquerque Indian School. The facilities are fully utilized now.

Senator MELCHER. Whose facilities? The Albuquerque Indian facilities?

Dr. BARLOW. No; the Institute of American Indian Arts.

Senator MELCHER. The Santa Fe campus?

Dr. BARLOW. Yes.

Senator MELCHER. Is there anything in the Reagan budget for the Albuquerque Indian School?

Dr. BARLOW. The Albuquerque Indian School is funded under our school equalization formula, so the funds are there.

Senator MELCHER. How many students are there?

Dr. BARLOW. 273 are at the Santa Fe campus——

Senator MELCHER. Please do not confuse me. When you talk about the Santa Fe campus, do not refer to that as the Albuquerque Indian School.

Dr. BARLOW. The students are funded under the same formula.

Senator MELCHER. How many are at the Albuquerque Indian School, right on the grounds there?

Dr. BARLOW. I think 175 is the figure.

Senator MELCHER. 175?

Dr. BARLOW. In Albuquerque, yes sir.

Senator MELCHER. In that dilapidated clutter of buildings?

Dr. BARLOW. That is correct, sir.

Senator MELCHER. Are some of them living there as boarders?

Dr. BARLOW. Yes, sir.

Senator MELCHER. How do you determine which ones get to live there and which ones get to live over in Santa Fe?

Dr. BARLOW. Well, this is a decision that was made in the spring of 1979. The school authorities, working with us, opted for sending the 10th, 11th, and 12th grade students up to the Santa Fe campus and retaining the 7th, 8th, and 9th grade students at the Albuquerque Indian School.

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[1] See appendix, p. 140.

Senator MELCHER. You have 175 7th, 8th, and 9th graders there?

Dr. BARLOW. Yes.

Senator MELCHER. What is the maintenance cost of that clutter of buildings?

Dr. BARLOW. I would have to furnish that for the record as I do not have that, sir.

Senator MELCHER. Please do.

[Subsequent to the hearing the following information was received.]

FACILITY OPERATIONS AND MAINTENANCE—ALBUQUERQUE INDIAN SCHOOL

	Actual fiscal year 1980	Estimate fiscal year 1981
Operations	$288,400	$301,200
Maintenance	157,300	210,000
Total	445,700	511,200

Senator MELCHER. What would you like to do there if you had your choice, Dr. Barlow?

Dr. BARLOW. There has been a congressional appropriation of $2.3 million to renovate, remodel, and to bring it up to standards.

Senator MELCHER. You do not really want to do that do you? Would you recommend that if you had your choice?

Dr. BARLOW. I think that we have the situation under review, Senator, and we will try to come up with what is best for all concerned.

Senator MELCHER. You do not want to tell me, I take it.

Dr. BARLOW. There are a lot of factors involved here, all of which require some very deep thought and concentration.

Senator MELCHER. I thought there were only about two or three factors involved.

I do not know how much deep thought it is going to continue to cause, but I think it is about time this committee at least make some very solid recommendation on what should be happening there. I hope that before too long that we do that. I think we have watched a rather peculiar arrangement out there at Albuquerque and Santa Fe for long enough. I do not think I am exaggerating when I say that there are about 35 or 40 buildings there that require maintenance, many of which should be torn down or sold off for some sort of scrap. Am I right on that?

Dr. BARLOW. Engineering reviews do point up a very serious problem. Incidentally, by splitting the student enrollment from Albuquerque Indian School, we were able to close up some of the very unsafe buildings and put the remaining 175 students in the better buildings.

Senator MELCHER. I do have one other question for you and then I will have one for Dr. Johnson.

I went through your testimony rather rapidly and I did not see anything in there about what is going to happen if we start strip mining coal on some of these Indian reservations—other than the ones that are doing it currently. What will happen in terms of whether or not these tribes—like the Crows and Northern Cheyenne—take over the functions of running the reclamation program. If we do not pass some legislation so they can do that, would you not have to envision in your budget quite a bit of extra help for running the reclamation program on an Indian reservation?

Mr. Canan. Senator, I think we will need additional help. We do have more money in our budget this year for lease compliance. We have a substantial sum for lease compliance. We have increased our budget for the entire area of resources development and trust responsibilities. The specific figures are not in my statement here.

Senator Melcher. Dr. Johnson, I have not had a chance to go through your testimony and I am going to have to leave, so if it is all right with the chairman, I will ask this one question. BIA says they are going to get rid of 400 slots. Are you getting rid of any slots in Indian Health Service?

Dr. Johnson. We have not projected the reduction of any slots.

Senator Melcher. You do not have any in there?

Dr. Johnson. No, sir.

Senator Melcher. We issued a report which was a little critical of some of your practices of spending money. Forgive me for not having read your testimony but have you covered that in your testimony? Are you going to save that money that we criticized you for spending.

Dr. Johnson. Not in this testimony, no.

Senator Melcher. Well, you would not be approving any airplane lessons for any personnel any more would you?

Dr. Johnson. I would doubt it.

Senator Melcher. What does that mean, "doubt it"?

Dr. Johnson. I think that I am agreeing with you.

Senator Melcher. I hope so.

Senator Cohen. Why did you qualify it by saying, "I think"?

Senator Melcher. I heard Vice-President Bush is going to be the shotgun on this war on corruption. I do not want to indicate that it is more than it is but it did seem to us that some of those expenditures were rather thoughtless.

One of the things that concerned us a great deal was that some of the expenditures did not seem to follow the regulations that we set up for Indian Health Services, the whole procedures. What about that?

Dr. Johnson. I was pleased that in your rather thorough investigation, there were no illegalities found. In the handling of our funding, there were occasions when certain administrative procedures were not followed as carefully as they should have been. We do not condone our staff's failing to follow these administrative procedures. Our analysis, and I believe your analysis, indicated that the functions for which those funds were appropriated were, in fact, carried out. I think anytime that you have a problem as large and complex as the health program with very short administrative staff as we have, it has been identified repeatedly by investigations from the Congress and the GAO—I think it is inevitable that there will be occasions when all of the administrative procedures are not followed exactly. We do everything we can to minimize that and take whatever corrective action is necessary.

One of the things which we are doing now, and I think it will be quite helpful, is that we are streamlining some procedures to help eliminate some of the management bandplaying that goes on in the

Federal Government in order to get certain things done, recognizing that we simply cannot have as many different checks and balances as one might like.

Senator MELCHER. I would not disagree with streamlining the procedures, because they are cumbersome. But the problem comes when purchases are made without prior approval of whoever is supposed to make those purchases. Then the committee questions whether the purchases should have been made in the first place. It is doubly aggravating to find out that the rules or methods that you were supposed to follow in the Indian Health Service, were not followed. I mean we disagreed with the purchases, that was one thing. We also wondered who was running the show when the purchases were made without following ordinary procedures. So we were looking at both sides of it and disagreeing with both sides of it, but I do not disagree with what you have just said of streamlining your own procedures for making such purchases. We just feel that there ought to be accounting and that the purchase is a wise purchase. Perhaps in streamlining it, it will be easier to detect at various levels whether those purchases are, indeed, wise.

Dr. JOHNSON. I quite agree with you. We have come to the conclusion that there is not going to be expanded management staff in Indian Health Service for the foreseeable future. The only way to get it done correctly is to streamline the procedures and make sure that we have just the essential checkpoints and not necessarily follow all the elaborate procedures that have been otherwise designed in the system earlier.

Senator MELCHER. We are getting requests still for more oversight hearings on the Indian Health Service and in the field. We are being asked to make it a regular event each Congress. I suspect that you would find favor with that, would you not?

Dr. JOHNSON. We would welcome that.

Senator MELCHER. Thank you very much. Thank you, Mr. Chairman.

Senator COHEN. I think you were suggesting that Vice President Bush is going to ride shotgun on waste and inefficiency in Government spending. He will be happy to hear that.

Let me come back, Mr. Canan, if I can. The Indian Health and Human Service proposes to eliminate its program in education of students in the field of health on a basis that there are sufficient funds in programs of other agencies. Can the education program of BIA absorb those programs?

Mr. CANAN. Mr. Chairman, we do not have an increase. Our scholarship program, our higher education program is included in our block grant and that would be at the option of the tribe, depending on the priority that they want to place. We have not allocated any special money to meet that particular need.

Senator COHEN. Let me go back to what Senator Inouye was inquiring about: The education program for Indian students is being phased out. How many students are being funded under this program now, Dr. Johnson?

Dr. JOHNSON. In fiscal year 1980, we have 564 students under scholarship.

Senator COHEN. Given the decrease in the Indian health manpower funds and the cuts in other student loan programs, under the new budget, are there other scholarships for financial assistance programs to absorb the students who have benefited by IHS so far.

Dr. JOHNSON. Well, it is my understanding that the decision to phase out title I, Indian Health Service scholarship program, was made on the basis that there were other scholarship programs that were available for this purpose.

Senator COHEN. Do you know that for a fact?

Dr. JOHNSON. I do not know that for a fact.

Senator COHEN. Where would we find that out, Dr. Johnson.

Dr. JOHNSON. I think one would have to go to the Office of Education. They could tell you the status of their scholarship programs. I think Mr. Canan has told you the status of the Bureau of Indian Affairs scholarship programs. The only other scholarship program that I am aware of, which is rather widely used, is the National Health Service Corps scholarship program of which ours is really a subpart. That is, as you know, being scheduled for phaseout as well this year.

Senator COHEN. What about the elimination of the recruitment programs in the four university and masters and Public Health programs. Are they going to have an impact on the future of Indian Health manpower pools?

Dr. JOHNSON. I think, Mr. Chairman, that they have been quite successful in getting Indian students up to speed to get into professional schools. I mentioned, I think, to Senator Inouye that we have a very good record of retaining students once they get into our scholarship program and I would have to believe that the recruitment and other supportive services provided have done that.

It was our position this year that we ought to put our emphasis on supporting the students in scholarships, particularly with the phaseout of the program, and to continue to invest in the recruitment program was not very wise, under the circumstances.

Senator COHEN. Mr. Canan. I have heard it suggested that the BIA be treated as a 51st State for some program purposes of other agencies. Is there any thought within the Reagan administration for such a proposal?

Mr. CANAN. Mr. Chairman, this has been discussed, yes.

Senator COHEN. Will you spell it out for me as I am not familiar with the proposal.

Mr. CANAN. The 51st State concept, I think, is in effect saying that where there are special Indian programs in a general allocation to States and there is money specifically identified for Indian tribes, that there are really two ways to handle it. One is to require the States to make some kind of an accounting to make certain that that money does, in fact, flow through the State to the tribes. The other alternative, and this has been tried in several programs, is to have that money go from the Department—whatever department that is—directly to the Secretary of the Interior, who then distributes it directly to the respective tribes. So, the Secretary is called the Governor of the 51st State.

That has been true in the highway safety program. It is true in some of Dr. Barlow's programs—the handicapped program, I think—and some title I programs where the money comes from the Department of Education to the Bureau of Indian Affairs and then is distributed by us to the particular tribes and schools. So that is the concept.

Senator COHEN. What is your personal recommendation as to this proposal?

Mr. CANAN. If I were to comment on a personal basis, I think I would prefer some system which would earmark it and require the States to see to it that the money is allocated properly to the tribes. But there are some situations in which the 51st State concept may be the only way to do it.

Senator COHEN. Is that not a categorical grant approach of earmarking funds going directly to tribes? It cannot be touched, it cannot be consolidated. Is that not inconsistent with the consolidation with all these other programs down to four basic grants?

Mr. CANAN. I do not think it is inconsistent, Mr. Chairman, in the sense that even if it were a block grant to the States and that block grant to the States included a number of programs where there was a special Indian allocation, then the dollar figures could still be earmarked to the tribes and the tribes have the same option that any other local government has.

I think our concern is that the tribes are recognized as local governments. They do receive an adequate share of the program dollars going to them, whether they get it flowing through the State or flowing through the Secretary of the Interior. The important thing is to make sure that they get what they are entitled to.

Senator COHEN. One of the major cases that was settled last year involved the main Indian Land Claim case in which there is going to be a vastly increased land base available now to the Penobscot and Passamaquoddy Tribes, going from some 5,000 acres to nearly 155,000 acres. I was wondering, with this tremendous increase in land area and the need for management, was this factor taken into account when BIA put together this budget?

Mr. CANAN. Yes; it was, Senator. There is money in our trust responsibilities budget. I think it is $900,000. I think that is the figure to permit us to meet these responsibilities.

Senator COHEN. I have a number of detailed questions which I will ask you to submit written answers to for the record. Without objection, we will insert both questions and answers into the hearing record.[1]

I will not take your time here this morning. I know that you cannot answer this request now, but will you provide the committee with a comparison of the funding levels for all Eastern tribes appropriated for the fiscal year 1980-81, and proposed for 1982 in the following nine program areas. I will give these to you by letter so that you will have a record of it. Basically, they are: Tribal government; law enforcement; housing; self-determination; economic development; employment assistance; forestry, wildlife, and parks real estate services; and social services. I would like to have a breakdown of those fiscal years.

Without objection, a written response will be included in the hearing record.[1]

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[1] See appendix, p. 140.

Senator Cohen. Why was it necessary to establish a BIA area office in Maine? Why was this office necessary when the Penobscot Nation contracts for all services to be provided for under Public Law 93–638?

Mr. Canan. Senator, it is not going to be much of an office, but we do have a responsibility for, what I would refer to as a contracting officer's representative. That will be the primary function of the people in that office; to represent the Federal Government in the same sense that we deal with every tribe. We have a responsibility to monitor contracts which we cannot escape. The question would be whether the monitoring was done from here in Washington or by somebody on the ground who could work with the tribes and be familiar with the programs.

The purpose of that office, as I understand it, is solely to be a contract monitoring outfit. Also, I have to add, if that is going to be considered trust land, if we have a responsibility as an independent trustee, then somebody is going to have to be very familiar with what is happening in order to make the independent judgments that a trustee must make.

Senator Cohen. Mr. Canan, Dr. Barlow, Mr. Babby, do ~~you have~~ have separate statements that you would like to present to the committee?

Dr. Barlow. No, Mr. Chairman.

Mr. Babby. No, Mr. Chairman.

Senator Cohen. You are just here to make yourselves available to answer questions.

Senator Gorton?

Senator Gorton. I have no questions.

Senator Cohen. Dr. Barlow, what specific steps will be taken to avoid the recurring problem of insufficient funds for administrative overhead and indirect costs for the contract schools?

Dr. Barlow. I think Mr. Babby would probably be better able to answer that. It is true there are contract schools, but the contract support funds are handled on the Bureau side.

Mr. Babby. Senator, the indirect cost problem is one that the school and the Bureau have been concerned about for the past couple of years. We have had a task force trying to identify all of these problems related to indirect costs and to develop approaches to it.

With regard to the basic problem which schools as well as Indian tribes are facing, what we are looking at there is the shortfall between our appropriation request for contract support dollars and the actual rate that is authorized or required at the time the fiscal year finally occurs. Our estimates are prepared about 18 months ahead of time and by the time we get to the fiscal year, the rates have gone up, new contracts have been entered into, and our appropriation request is somewhat deficient.

In 1980 we had 91 percent and we are looking at 94 percent this year.

With regard to contract schools, this is where the primary impact is. While tribes have the opportunity to cover some of these costs from other sources, contract schools do not. What we are looking at there, primarily, is trying to find a way to move contract support dollars, which fund indirect overhead, to the regular program appropriation for the school. By having administrative guidelines as to school operations and the other expenses, we will be moving in that direction.

Senator Cohen. Well, what are you doing basically to institutionalize and set forth the basic differences between the contract school boards and the BIA operated schools? Is there a difference?

Mr. Babby. Only in terms of the fact that the contract schools have a contractual relationship to the Bureau.

Senator Cohen. Do they get involved in the process of the formalization of rules and regulations, modifications, et cetera?

Mr. Babby. No; they do not.

Senator Cohen. Is there an attempt to reverse the trend of control over contract schools with regard to rules, guidelines, and regulations that control the curriculum, the bookkeeping, et cetera?

Mr. Babby. No. At the present time we have consulted with the tribally controlled schools through their organizations and so on. I think one of the items that we are bringing to a successful conclusion is that the Bureau operated schools are required to follow that fund accounting system which, of course, was needed. We then went to the contract schools and gave them three options as to how they could come in with this and I think we are close to completing those negotiations.

Senator Cohen. Those are all of the questions that we have at this time. Before the open session, we will request specific answers for the record from you.

[The prepared statement follows:]

Statement of James Canan, Acting Deputy Assistant Secretary of Indian Affairs, U.S. Department of the Interior

Mr. Chairman and Members of the Committee: I am pleased to appear before your committee today to discuss the Bureau of Indian Affairs revised budget request for fiscal year 1982. We are asking Congress to appropriate $979.4 million for federally funded programs and $489.2 million for permanent and tribal trust funds. The revised budget reflects a decrease of $76 million below the fiscal year 1982 budget transmitted to Congress in January 1981, and a reduction of over $139 million from the fiscal year 1981 amount.

This budget places the Bureau's emphasis on three major areas of responsibility. They are: (a) to recognize and preserve the inherent rights of tribal self-government, to strengthen tribal capacity to govern, and to provide resources for tribal government programs; (b) to fulfill and execute the Federal trust responsibility to American Indian tribes and Alaska Native groups; and (c) to emphasize management improvement activities that will strengthen BIA's ability to serve Indian people.

Within this framework, and as part of the Bureau's continuing commitment to tribal self-determination, the Bureau proposes to provide Indian tribes with a greater role in allocating financial resources and additional flexibility in meeting their particular reservations' needs. To accomplish this, the Bureau plans to consolidate several programs which are essentially local government programs, and then offer tribes a simpler and more effective means of setting priorities and dealing with these programs consistent with Federal laws and regulations, as well as tribal goals and objectives.

CONSOLIDATED TRIBAL PROGRAMS

To this end the budget amendments propose the creation of a single budget activity by merging and consolidating accounts now in use for the following programs: Agricultural Extension, Johnson O'Malley Educational Assistance, Adult Education, Community Fire Protection, Direct Employment, Adult Vocational Training, Self-Determination Grants, College Student Assistance, Indian Action Teams, Housing, and related Contract Support. As a single line item budget activity, entitled "Consolidated Tribal Government Programs", this new approach will offer each tribe the option of selecting, within the overall budget, the amounts and types of programs the tribes or the Bureau will operate on the reservation during any budget year. If the tribe chooses to operate the programs, it may do so under a new grant mechanism we intend to establish through our regulations.

Public Law 93-638, the "Indian Self-Determination and Education Assistance Act" requires that the tribe have the option of contracting with the Bureau to operate its programs on reservation or having the Bureau continue to operate or resume operations of such programs. This option is to be retained. Under the new arrangement, the Bureau will consult with the tribes annually on the priorities and funding mix desired among the programs authorized by the new budget activity. The Bureau will also consult with tribal representatives on those programs which the Bureau is to operate and those which the tribe wishes to operate by contract, cooperative agreement, or grant.

Ultimately the Bureau intends to move toward a single, consolidated grant or cooperative agreement instruments to each tribe for the programs it wishes to operate. Administratively, authority already exists for such an approach under Public Law 93-638, which authorizes tribal operation of Bureau programs, and Public Law 95-224, "The Federal Grant and Cooperative Agreement Act of 1977", which requires that financial assistance with certain characteristics be treated as either grants or cooperative agreements notwithstanding any other provision of law. The Bureau believes that assistance under the programs listed above can properly be treated as grants or cooperative agreements and the Bureau is beginning to amend its Public Law 93-638 regulations to provide for the appropriate process. Of course, tribes will be consulted on the amendments.

Under the new grant mechanism accountability will be retained. Any tribe which elects to receive a single consolidated grant in lieu of Bureau operation of a particular program or programs shall submit a plan for carrying out the programs, projects, functions, or services. A consolidated plan and application, a single letter of credit, a single set of books, simplified financial reporting, and a consolidated audit will be adopted.

A portion of the funds from the consolidated programs will be necessary for program management. Bureau staff will be retained by the government to perform those functions which tribes prefer the Bureau to operate. Program eligibility criteria and regulations will continue to apply for those programs consolidated in the grant activity. Finally, to support the new grant program, the Bureau will enhance its own capacity for technical assistance, planning and evaluation to assist tribes and improve tribal capacity to use the proposed flexibilities to greater effect.

HIGHLIGHTS OF PROGRAM INCREASES

The fiscal year 1982 budget request includes individual program increases deemed necessary in the fulfillment of Bureau mission founded on the trust responsibility and government-to-government relationship between U.S. Government and the Indian Tribes. The following are the major proposed increases:

Indian education

An increase of $3 million is requested in the School Operations activity due primarily to the increased costs in the base student value used in the Indian school equalization formula, and a somewhat higher number of handicapped students estimated to be served in fiscal year 1982. Also an increase of approximately $1.3 million is requested for the Tribally Controlled Community Colleges program in anticipation of additional students attending.

Indian services

A proposed increase of over $3 million in Social Services programs consists principally of requirements related to the Indian Child Welfare Act and other welfare grants with the exception of Alaska general assistance grants.

In the Law Enforcement activity the requested increase amounts to $3.2 million. This results from the increased need for law enforcement services provided by both the Bureau and tribally operated programs.

Natural resources development

The request for this activity in fiscal year 1982 represents an increase of $4.5 million. It will be utilized in the development of multi-discipline natural resources efforts that will include forestry, agriculture, water resources, and wildlife & parks on Indian lands.

Trust responsibilities

A net increase of $2.9 million is requested for Rights Protection programs including funds for Statute of Limitations and implementation of the Alaska National Interest Lands Act. Real Estate Services are increased by $1.3 million.

Facilities management

An increase of $5 million is requested to provide for increased costs of energy and other utilities for Bureau owned facilities.

Construction (building and utilities)

The fiscal year 1982 request for Construction of Buildings and Utilities includes $4.8 million for three new law enforcement facilities: Menominee Court House, Wisconsin; Omaha Detention Facility, Nebraska; and Rosebud Law Enforcement Facility, South Dakota. The request also includes $0.9 million for school equipment at Turtle Mountain High School, North Dakota; and $40 million for Facility Improvement and Repair to correct unsafe and/or unsanitary conditions, to initiate high priority energy conservation projects and to correct other deficiencies in existing Bureau facilities. The Facility Improvement and Repair program level represents an increase of $16.2 million over fiscal year 1981.

Irrigation construction

The proposed Irrigation Construction program would provide an increase of $29.7 million over fiscal year 1981. This includes $5.1 million for continuing construction on the Navajo Indian Irrigation Project. Other irrigation projects totalling $42.1 million would be funded including the legislatively mandated projects at Ak Chin, Arizona for $27.1 million and at Fallon, Nevada for $4 million; $2.6 million for the Grass Rope Project in South Dakota; and a total of $8.4 million for small projects which promise a quick return on investment. The request also includes $2.4 million for supervision and engineering for irrigation construction and rehabilitation work on Indian irrigation projects throughout the arid west. A major new effort for assuring dam safety is indicated at $7.2 million in fiscal year 1982.

HIGHLIGHTS OF PROGRAM REDUCTIONS

As I have previously stated, the total decrease proposed to aid in achieving economies in the fiscal year 1982 budget as part of the President's Program for Economic Recovery, amounts to $76 million for the Bureau. It involves a reduction of $60.1 million in the Operation of Indian Programs, $12.8 million in the Construction of Facilities, and $3 million in the Road Construction Program. The individual activities affected are essentially those which we felt could be either postponed, deferred, or conducted with less funds without serious adverse consequences.

Operation of Indian Programs

The revised request for this appropriation is now $822,977,000; a reduction of $60,112,000 from the January budget. Of this amount, $40,622,000 relates to programs transferred to the new budget activity "Consolidated Tribal Governmental Programs" which I have previously discussed. The remaining $19,490,000 consists of: (1) $5,700,000 reduction in the General Assistance Grants for Alaska operations in line with State takeover of funding responsibility; (2) a reduction of $1,373,000 from the business enterprise development program which will phase-out the provision of technical assistance in the development of new and existing tribally and individually owned Indian enterprise management systems—the Bureau will however, continue to assist tribes by acting as a clearing house or advocate for assistance from other sources; (3) reduction of $650,000 in the Forestry program to defer the forest inventory initiative; (4) reduction of $1,000,000 which will eliminate assistance to be provided under the Tribal Managers Corps program to tribal governments—the Bureau will meet the need for such assistance by using existing in-house resources; (5) decrease of $9,886,000 in personnel compensation which will be realized through a reduction of up to approximately 400 work years as part of the President's program to cut Federal employment; and (6) a reduction of $881,000 in travel which will be realized from improved control of scheduled trips.

Construction

A reduction of $12,849,000 proposed in the construction of buildings and utilities program, reflects essentially a rescheduling, to future years, of a portion of the facility improvement and repair program. However, the program will continue to emphasis the correction of unsafe and/or unsanitary conditions, as well as the initiation of high priority energy conservation projects. In addition, as I noted earlier, the Facility Improvement and Repair program level represents an increase of $16.2 million over FY 1981.

Road construction

The proposed decrease in the Road Construction program amounts to $3,000,000, leaving a balance of $50,492,000. This represents an increase of $1,867,000 over the fiscal year 1981 amount.

OTHER PROGRAM EMPHASIS IN FISCAL YEAR 1982

The result of ongoing management improvements of the Bureau will be utilized, and such efforts will be continued and enhanced. We are now in a position to use our new financial planning and reporting system, begin to realize the benefits of having an Administration Services Center, install our new ADP equipment and use new management and program information systems. The end result will be improved accountability to the Congress and Indian people as well as greater efficiencies in the delivery of services. This program will be strengthened by increased attention to management oversight and program planning and evaluation. The major effort to decentralize and to improve staff capability and funding at the local level will be continued.

I want to assure the committee that my staff and I are ready to be responsive to Congress in every way possible, so that we can provide the Indian tribes and individuals the protection and services to which they are entitled. The Bureau will continue to upgrade and improve management processes in order to deliver these services as efficiently as possible.

This concludes my prepared statement. I will be pleased to answer any questions you may have.

Senator COHEN. Next, we will call Dr. Emery Johnson. You have already testified somewhat but I assume that you have a prepared statement to make.

STATEMENT OF DR. EMERY JOHNSON, DIRECTOR OF THE INDIAN HEALTH SERVICE, HEALTH SERVICES ADMINISTRATION, ACCOMPANIED BY JOSEPH EXENDINE, DR. P.H., DEPUTY DIRECTOR, INDIAN HEALTH SERVICES

Dr. JOHNSON. Thank you, Mr. Chairman. I have with me at the witness table, Dr. Joseph Exendine. He is the Deputy Director of the Indian Health Service. In case there are any detailed budget questions, Dr. Exendine will be prepared to answer them.

If I might I would like to simply submit my prepared statement for the record and just briefly summarize.

Senator COHEN. Please do. Without objection, your written testimony will be inserted into the hearing record at the end of your testimony.

Dr. JOHNSON. The budget that is currently before the Congress for fiscal year 1982 is a request for $684.9 million which is an increase of $20.5 million for Indian Health Services. It also includes $8.1 million for Indian health facilities. The Services' budget of $626.8 million is $28 million less than the amount that was requested initially in the former President's budget. This increase of $20 million that we talked about includes primarily mandatory costs for such things as salaries, the purchase of medical care and other contractual services, the transfer of alcoholism programs from the National Institute on Alcoholism and Alcohol Abuse, and for a continuation of the equity health care fund which was designed to attempt to provide a comparable level of support for all of the federally recognized tribes in health throughout the United States over a period of years.

The budget, as we mentioned earlier, provides the beginning of the phaseout of the title I Indian Health manpower programs for the reasons that I have given earlier, and also proposes the beginning of the phaseout of title V programs which are the Urban Indian Health programs.

The fiscal year 1982 budget for health facilities is $8.1 billion, which is a reduction of $108.8 million from the previous budget request. The $8.1 million includes $7.9 million to complete the health facility that is currently under construction for the Oklahoma Cherokees at Tahlequah, Okla., and a couple of hundred thousand dollars for technical energy studies to be carried out by the Department of Health and Human Services engineers.

The principal change in the facilities' budget, of course, is that there are no new starts for health facilities; that is, no new hospital starts, no more health center starts, and second, the elimination of the sanitation facilities construction program which was discussed a little earlier this morning.

That is the summary Mr. Chairman, of the budget that is now before the Congress. I will be glad to answer any questions that you have.

Senator COHEN. Senator Gorton?

Senator GORTON. I would like to ask you a couple of questions similar to those that I asked of the BIA: Simply for a description of the Indian Health Service; who is its client population and what is the scope of the entitlement of that population to health services?

Dr. JOHNSON. We provide basic health services, inpatient, outpatient services, preventive services, including environmental health services, to a little less than 800,000 Indian and Alaskan people who live on or near Federal Indian reservations, or in former Indian territory in Alaska or the State of Oklahoma.

Senator GORTON. Excuse me. Your number is larger than that of the BIA but I take it that that does not include the Indians who are living entirely off of the reservations.

Dr. JOHNSON. No. It includes what we call our service population. Our population is derived from the Bureau of the Census and it includes the census tracts that include reservation land or land which is contiguous to reservation land. We adjust this annually by adding births, subtracting deaths, and adding a migration factor provided to us by the census. The figure I am giving you now is based on the 1970 census, along with these demographic corrections. As Mr. Canan said, we should have, within the next few months, a new census and then we will revise our figures for that purpose.

Senator GORTON. Will you go on with the nature of the services provided?

Dr. JOHNSON. The kinds of services that we would provide are basically the services that you would find in any relatively small rural community. There is a local hospital, a local doctor, a family dentist, a local optometrist, and the local health department. Up until now we have also been in the public utility business in the sense that we have built the water and sanitation facilities for the Indian homes and community.

Senator Gorton. Is there any contribution required from your patients or any means test?

Dr. Johnson. No. There is no means test in our program. However, we do require the use of all third party reimbursements. We are not a first dollar program; we are a residual program. Other programs Indians are entitled to, either insurance, medicare, medicaid, or other State or local programs, are expected to provide either reimbursement or the first dollar of expenditure in contracts.

Senator Gorton. Thank you.

Senator Cohen. Dr. Johnson, the fiscal 1982 budget revision for Indian Health Services proposes no funds for the delivery of water or sewage facilities for Indian housing. Is that correct?

Dr. Johnson. That is correct, sir.

Senator Cohen. There are some estimates of as many as 8,000 houses already constructed but awaiting water and sewage hookup. Is that your understanding as well?

Dr. Johnson. No; I am not aware that there are many houses already constructed. Our figures are that there are probably some 230 houses that are constructed that are awaiting water and sewer hookups. It is my understanding that there are a number, perhaps a couple of thousand, that are under construction that will require sanitation facilities for which we will not be able to provide water and sewer hookup facilities.

Senator Cohen. Well, HUD contends that there is enough money in the pipeline to build 20,000 more homes in the next 5 years. These are also going to need water hookups and sewer hookups as well. How do you reconcile the disparity between the HUD estimates of future housing with IHS termination of the sanitation facilities?

Dr. Johnson. My understanding, Mr. Chairman, was that the decision to terminate the Indian Health Service sanitation facilities program, as it related to new housing, was based on the assumption that there would, in fact, be no new housing additions; no new housing construction. To the extent that additional houses are constructed, obviously there is a shortfall in the provision of sanitation facilities. If the Indian Health Service is not to provide that then it would fall on the agencies constructing the housing units to provide that facility.

Senator Cohen. What will be the impact of its termination in the 1982 budget?

Dr. Johnson. Based on a number of studies that were done, it became very clear that Indian people who lived in urban areas, although they were theoretically entitled to participate in a wide number of State, local, and other federally supported health programs, for a number of reasons, did not actually access those health services.

I think the precipitating factor was a study that the American Academy of Pediatrics did in Minneapolis, where in reviewing the programs in the study, they came up with the conclusion that obviously Indian people who were very much in need were somehow not able to get care through those other resources. So, we started with a pilot project in Minneapolis where the Indian group developed an access mechanism to provide a place for the Indian community to come to get referral and eventually it came to the point of delivering basic ambulatory care services. That, historically, is how it came about. I think that a number of evaluations of the programs have shown that that has in fact been carried out by those programs.

The current position, however, is that some years later there is a mechanism in the cities as you go to block grants, that should be able to provide support to these programs. They are basically community health centers run by various Indian groups in the urban areas.

Senator COHEN. What you are saying is that the program, as originally conceived, did not prove to be terribly effective or efficient and had to be replaced by others?

Dr. JOHNSON. I think the program, as originally conceived, turned out to be very successfully, and has, in fact, provided a mechanism for the cities to provide health services and to eliminate health deficiencies in a segment of their population which heretofore had been very, very difficult to reach.

Senator COHEN. In other words, it is so successful that it ought to be terminated then?

I do not understand exactly. Either it is a success or a failure. If it is a success then it ought probably to be continued unless it was so successful that there is no need for it any longer. Or, if it is a failure, then perhaps we ought to try a different approach. I am not sure what the answer is.

Dr. JOHNSON. I am simply trying to define for you the basis on which the administration made its decision. The decision was based on the fact that there are going to be resources made available to States and city governments through block grant programs, and there are also the reimbursement programs, medicare, medicaid and so forth, which should be able to support—at least that is the assumption of this decision—these urban Indian programs in the same way that the community health centers and other delivery systems in urban areas are going to be continued, even though they will no longer be supported through direct grants from the Federal Government.

Senator COHEN. I just came back from the State of Maine over the weekened, and met with some rural health hospitals and their directors. They are concerned because their programs are being consolidated as well with the 25-percent reduction, with the logical consequence being that there will be more focus upon urban areas than their will be in rural States, such as Maine, and I am assuming many other parts of the country.

On the one hand we have rural States being concerned about the focus shifting to urban areas where they already have a certain infrastructure and are capable of supporting more health facilities. Now we look at this particular program and say that we are going to cut back on this urban program as well because it is going to be taken care of under other consolidated programs in another part of the budget. I am just not sure how it is all going to work out.

Dr. JOHNSON. I think, if the assumption is correct that one can save 25 percent in administration, in eliminating gaps and overlaps, and so forth, through going to block grant programs, that this all fits together.

Senator COHEN. That is what I wanted to hear you say. In other words, your proposal to save 25 percent in administrative costs is not going to actually cut delivery of services. Is that what you are saying?

Dr. JOHNSON. This is my understanding of the assumption behind the proposal. That is correct, Senator Cohen.

Senator COHEN. There is some concern that the alcohol programs in the Health and Human Services are also being block granted to the States and this is going to adversely affect the Indian alcoholism programs. What is your judgment on that?

Dr. JOHNSON. As you know, several years ago the decision was made by the Congress in support of the administration at that time to begin the orderly transfer of these Indian alcoholism programs in the Institute to the Indian Health Service for continued support. The basis for that decision as I understand it was that, whereas there are other State and local funds that could cover alcoholism programs in the non-Indian programs, there certainly are no other State and local funds available for the Indian alcoholism program.

We have transferred to the Indian Health Service the majority of Indian alcohol programs. I think we have, at the end of this year, some 136 programs which will be in this program. There are still a few programs which are still in the Institute. My understanding at the moment is that those programs that are in the Institute would be considered for a block grant to the States. Those Indian programs then would have to attempt to get continued support through the State block grant mechanism.

Senator COHEN. Over the last fiscal year, there have been some new hospital and clinic facilities completed. I have been advised that there is some question as to the capacity of IHS to properly staff these facilities. Is that correct or incorrect?

Dr. JOHNSON. We have coming open during the next fiscal year, several facilities that would obviously require some additional staffing to make them functional. There are two, for example, where we have no current facility. It is our intention to open them and to operate and staff them by reassigning staff from other facilities.

Senator COHEN. This sounds like the rapid deployment force to me. We are going to take forces that are principally assigned to the reenforcement of NATO and put them over in the Persian Gulf. How are you going to do that? Are you going to take them from one facility and put them in another and reduce the service level in one facility?

Dr. JOHNSON. One would hope that we would be able to make these readjustments in the program.

Senator COHEN. Is it your feeling that some hospitals or clinics are overstaffed?

Dr. JOHNSON. I do not believe that there are any that are overstaffed if you compare them to larger community standards. There are some within our system that are more adequately staffed than others. We intend to readjust it that way.

Senator COHEN. In other words, the ones that are more adequately staffed than others would be reduced to the less than adequate levels across the board? You have some that are meeting acceptable standards, there are others that are less capable, and what you propose to do, in essence, is to reduce those that are more capable and put them in a category of less capable but they would be spread evenly across the board. Is that fair or unfair?

Dr. JOHNSON. I would hope that it will not be to that degree, Mr. Chairman. It is certainly not our intent to lower the standards of any facility below an acceptable level.

Senator COHEN. But, in some you are going to have to lower the level that it currently is in order to disperse those staff members elsewhere.

Dr. JOHNSON. That would be one of the options that we would have, sir.

Senator COHEN. What would be the other option?

Dr. JOHNSON. There are a number of other activities that one can deal with as, for example, we begin scaling down our sanitation facilities in the construction program. That will release at least some staff there.

Senator COHEN. You are going out of the construction business?

Dr. JOHNSON. That is the proposal in the budget.

Senator COHEN. There are no funds for the construction of facilities in the future in the fiscal 1982 revision, right?

Dr. JOHNSON. Right. There are no funds for sanitation facility construction.

Senator COHEN. Do you intend to make that a permanent termination of the construction business for IHS?

Dr. JOHNSON. It is my understanding that that is the administration's proposal.

Senator COHEN. What has the equity health-care fund accomplished so far?

Dr. JOHNSON. To give you a little background in that, Mr. Chairman, a number of tribes have been brought back into Federal recognition in the past several years including three or four tribes in Maine. A number of tribes were in States where there were no special resources provided to them, whereas there were other tribes which were in States where each year Congress would provide them with additional support. So that over time, in my judgment at least and rather generally agreed by people who have reviewed the program, it was getting out of balance and it was our feeling and the Secretary's in sending the Indian health care plan to the Congress last April that it was necessary to provide an objective mechanism to try to provide comparable levels of services to all of those tribes who are within the program.

The mechanism that we have used is the one that we call the equity health care fund, where you preferentially fund those tribes that are at the lowest level of resource and you bring them up as rapidly as you can with the intention, over the next 4 years, to have all tribes at a comparable level of service.

Senator COHEN. The next question is, what has it accomplished so far?

Dr. JOHNSON. This is the first year, of course, of that funding. The appropriation came in December, and we got our OMB apportionment in the latter part of January so that we are rather early on in this. What we have done is provide the funding, made it available to the various tribes that are slated to obtain the funding. They take their tribal health plan—each tribe has a tribal health plan that they develop themselves, at least 90 percent of tribes develop health plans themselves—and they take this money and use it. They make a proposal to us as to how they would use that additional funding to impact most productively on improving their health program. We are then reviewing those with them and some of the tribes, many of them in fact, will contract and deliver the service themselves and a few will ask us to do it for them. So, we really do not have any clear outcome yet. The money is just now being made available.

Senator COHEN. Of course you do not have enough of a track record to make any assessment of its validity or whether or not it ought to be continued in the future.

Dr. JOHNSON. It certainly is our judgment that it ought to be continued. There ought to be some way of providing equity or parity.

Senator COHEN. Is the purpose behind the program to give you enough opportunity to have a reallocation of resources? Is this a sort of interim measure designed to allow you to formulate a plan to come up with a bettter allocation of your resources?

Dr. JOHNSON. I believe that this is, in fact, the plan to do it. The plan to do the reallocation was basically sent to the Congress in the Secretary's National Indian Health Plan and this is being reenforced by other documents that are being put in place. This is the mechanism that we are proposing to use to carry this out.

Senator COHEN. How long would you expect a particular tribe to be included in equity health care fund? In other words, you are going to give priority treatment to those at the lowest end. How long would it take before they are put back into the regular system?

Dr. JOHNSON. The intent of the Department is to try to do this within a 4-year period.

Senator COHEN. I think that is all we have, Dr. Johnson. Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF DR. EMERY JOHNSON, DIRECTOR, DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH SERVICES ADMINISTRATION

Mister Chairman and Members of the Committee: I am pleased to appear before you today to discuss the fiscal year 1982 budget request for the Indian Health Service (IHS).

As you know, the IHS is a constituent agency of the Department of Health and Human Services (DHHS) and the Public Health Service and is charged with administering the principal Federal health programs for Indian and Alaska Native citizens. Although this Department has within its purview a variety of health programs, funding mechanisms, and health care payment mechanisms which impact on Indian and Alaska Native people, it has a special and unique responsibility to our Indian citizens.

When reviewing the legislative and programmatic events of the past decade or so, we may fail to see that these events are actually a part of a pattern and if one examines this pattern, it becomes readily apparent that the present Federal Indian policy did not happen by fiat but is the logical outgrowth of a growing awareness of Indian needs.

The decade of the seventies was to witness significant change in the structure of programs designed to provide health services to Indian people. Two significant pieces of legislation, the Indian Self-Determination and Education Assistance Act (Public Law 93–638) signed on June 4, 1975 and the Indian Health Care Improvement Act (Public Law 94–437) signed on September 30, 1976 were passed in this period.

Public Law 93–638 codified in law the desires of Indian people to have a voice in the operation of health programs designed and operated for their benefit. It made self-determination by tribes the keystone of a new relationship, in which Indian people acting through their tribal governments, would determine the control and operation of their health programs. This law states that should a tribe wish to exercise control of all or part of its health programs, the Secretary of DHHS must accede to these wishes except in the case of certain closely prescribed restrictions, which then must be accompanied by Federal technical assistance and guidance.

The Federal government established its philosophy of self-determination for Indian people in Public Law 93–638. Public Law 94–437 authorizes resources to carry out the mandate for self-determination expressed in Public Law 93–638. Further, it defined in law types of programs and levels of service that could be expected by Indian people; in other words the national goal for programs providing services to Indian people. It also requires the Secretary of DHHS to report to the Congress periodically on accomplishments made in implementing these programs and to report on the need for additional resources to accomplish the goals defined in the Act. This latter requirement was accomplished with the development of a National Plan for the improvement of health care to Indian people, submitted to the Congress in April 1980.

There now exists a Federal health program for Indians in which services are now delievered by tribes and tribal organizations as well as the IHS. Thus, tribes and the IHS are now both components of a system designed to provide needed health services to Indian people.

The rate of participation by tribes in the management of their own health programs is accelerating. Although as expected, a few tribes have exercised their option not to participate, most tribes have chosen to exercise their options to operate parts of their health systems and a few have taken over alll of their health care systems. Most tribes view their participation as an incremental phasing of increasing responsibility for the operation of health programs as meaningful experience is gained, and qualified Indian people become available to staff programs. A review of the current situation indicates that significant health services formerly provided solely by the IHS are now being provided by tribal organizations. For instance, fully functioning health programs are being operated by the Seneca Nation of New York, the Menominee Tribe of Wisconsin, and in Alaska the Norton Sound Health Corporation and just recently, the Bristol Bay Area Health Corporation assumed operation of their health program. The Creek Nation in Oklahoma, the Navajo Health Foundation in Arizona, the Norton Sound Health Corporation and the Bristol Bay Area Health Corporation, both in Alaska, are operating their own hospitals. In addition, tribes now operate 233 health clinics and many health stations including mobile clinics and other small units to deliver health care in isolated communities. During FY 1980, services provided by tribes included 11,458 inpatient days, approximately 574,000 clinic outpatient visits, and 35,513 hospital outpatient visits, as well other health related encounters such as mental health counseling, alcoholism counseling and assistance to the aged. These services are provided by more than 5,0000 tribal employees. Currently, about 10 percent of the tribes are delivering all of their own services. Many tribes are operating smaller or single elements of their health services programs. Altogether, 89 percent of eligible tribes are operating some portion of their health program themselves.

Paralleling the increasing provision of health services by tribes, the IHS continues to operate it's health care system providing services to those Indians not served by tribal programs. This system consists of the Hospital and Health Clinic Program, Preventive Health Program, Contract Care Program, Emergency Medical Services, Urban Health Projects, Manpower Development, Tribal Management Programs, Health Facilities and Sanitation Facilities Construction Programs, and Program Management activities.

The IHS has the responsibility to assist tribes in their decisionmaking process by providing information, training, technical assistance and support. It also has the responsibility to assist tribes in the planning, development, and ongoing operations of tribal health care institutions. Contracting is the mechanisms normally used in establishing tribal takeover of former IHS programs. The IHS is currently engaged in an intensive effort to streamline the administrative process engendered by P.L. 93–638 to make the whole less burdensome to the tribes and facilitate the implementation of their decisions to assume operation of their health programs.

The passage of Public Law 94–437 is a key element in the operations aspect of IHS programs. Not only did it define just what services Indian people could expect it, authorized resources to improve services and facilities and provided new authorities for training, alcoholism, Medicare and Medicaid reimbursement, and established the basis for limited programs to be provided to Indians living in urban locations. It also established a requirement that the Secretary DHHS report on additional resources and authorities needed during the last four years of the ACT, fiscal year 1981–84.

The National Plan, submitted April 1980, is based on 216 tribal and 34 urban specific health plans representing 280 tribes and 41 urban Indian health groups. A significant effort went into clearly and accurately identifying tribal and urban health needs. The IHS is committed to using this Plan in the development of its future programs and resource allocation. The National Plan development process provided for many tribes the first opportunity to examine their own health needs, to assess present services against a common standard, and to project their own requirements for health care. The objective of this process was to enable each tribe and urban group to develop a comprehensive health plan which will provide equity of access to health services. This National Plan is the keystone in the efforts to coordinate the Federal and tribal/urban efforts in delivering health services to Indian people.

As part of the Plan development and in response to congressional direction, the IHS has developed a health service priority system which ranks tribes in terms of health needs based on the tribal specific health plans. This system includes a common measure of equity in assessing the health needs of each tribe. The resource requirements identified for the program elments involved were determined by the standards and criteria set forth in the Resource Allocation Criteria (RAC) which were developed through consultation with the Indian people. Having identified the resources for each tribe, their levels of deficiency were grouped into five categories, with Level I containing those tribes less than 20 percent deficient in needed resources and Level V containing those tribes 81–100 percent deficient in needed resources. The levels were spread in 20 percent increments.

Having reviewed the National Plan, which contained the array of tribes by priority of need, the Congress established an "Equaity Health Care Fund," the intent of which is to insure that those tribes with the greatest resource deficiency get priority funding. The Equity Health Care Fund was implemented in fiscal year 1981. The fiscal year 1981 IHS appropriation included $7,856,0000 to be directed to those 52 tribes in Level V (81–100 percent deficient) of the health services priority system. This increase will move the overall level of deficiency of these 52 tribes from Level V to Level IV (61–80 percent deficient) of the health services priority system. The distribution of these resources will be based on an updated priority system i.e., those tribes most deficient in resources will receive priority funding as resources become available.

Concurrent with the the development of a service priority system, the IHS also developed a priority system for health facilities construction which is under certification by the Department. This priority system takes into account many factors in prioritizing each facility need, including availability and accessibility of existing health care, population projects, and related workloads.

PROGRAM MANAGEMENT

One of the most important efforts carried on by the IHS has been the continued development of its ability to manage the program more efficiently. The need for effective management has never been greater.

The implementation of Public Law 93–638 requires developing management capability to: adequately assist tribes in exercising their options under the law; in providing proper and timely technical assistance to them when required; to process the contracting procedures under Public Law 93–638 in such a way as to minimize the bureaucratic delays; and to implement the very special waivers granted in the law to facilitate the transfer of programs to tribes and tribal organizations. The ability to earn reimbursements under Title XVIII and Title XIX required the establishment of management procedures to earn, bill and utilize funds thus earned.

All of these illustrate that the management of such a complex program cannot be static, but on ongoing evolutionary process flexible enough to meet important new requirements as they arise. The IHS has continually made improvements in its management process to meet these changing needs and to make it more accountable to the Congress, the Administration, and the Indian people.

The results of efforts to improve the health of Indians are encouraging. Since 1955 the Indian and Alaska Native 3-year average mortality rates have been significantly reduced:

Infant mortality rate by 74 percent.
Maternal mortality rate by 90 percent.
Influenza and pneumonia mortality rate by 67 percent.
Tuberculosis mortality rate by 91 percent.
Gastroenteritis mortality rate by 90 percent.
Cogenital malformations mortality rate by 46 percent.

These significant decreases are primarily due to continued increased availability and accessibility to health services, improvements to the home environment such as improved housing, safe water supplies, proper sewage disposal, and increased emphasis on health education. For example, since 1955 hospital admissions have more than doubled, outpatient visits have increased almost nine fold, and dental services over ten fold.

Life expectancy has improved for Indians and Alaska Natives. In 1970, the Indian and Alaska Native life expectancy was 65.1 years, about 3.4 years higher than in 1960.

Tremendous improvement has been made in infant mortality rates for Indians and Alaska Natives. Currently, the Indian infant mortality rate is 1.2 times as high as the U.S. All Races rate.

Maternal death rates among Indian and Alaska Natives and the U.S. All Races have been decreasing since 1958. The decline has been greater among Indians and Alaska Natives. Since 1975, the Indian and Alaska Native 3-year moving average rates have been below that of the U.S. All Races and is now 8.3 per 100,000 live births, compared to the U.S. All Races rate of 11.2.

The rank order of the five leading causes of death among Indians and Alaska Natives changed between 1955 and 1978. In 1955, accidents, diseases of the heart, influenza and pneumonia (excluding newborn), certain diseases of early infancy, and malignant neoplasms were the five leading causes. By 1978, two of these causes (influenza and pneumonia, and certain diseases of early infancy) dropped out of the top five and were replaced by cirrhosis of the liver and cerebrovascular diseases.

A comparison of the age adjusted tuberculosis death rates between Indians and Alaska Natives, and U.S. All Races identifies significant health improvement among Indians and Alaska Natives. Today among Indians and Alaska Natives there are 51.7 fewer deaths per 100,000 population than in 1955 compared to a reduction among the U.S. All Races of 7.4 Although the gap has narrowed, the Indian and Alaska Native rate is still over six times as high as the U.S. All Races rate, therefore, continued program emphasis is needed.

The age adjusted mortality rate for diabetes mellitus is higher among Indians and Alaska Natives than for the U.S. All Races. Currently it is 2.6 times as high. The age specific mortality rates for homicide, suicide and alcoholism show major disparities in the younger age groups (age 15–44) and are higher than those for the U.S. All Races.

The results are indeed encouraging and have been brought about by the increasing cooperation between IHS programs, tribal programs, and the acceptance by Indian people of modern medical practices. The investments made in providing health care for Indian people are now showing sound dividends. Life is without doubt better now on the reservations than before IHS began its efforts, but in spite of these positive accomplishments, there remains much to be done. Efforts at mitigating the effects of alcoholism, mental health and accidents are just now beginning to see some pay off. Since these diseases find their causes in community based problems, the IHS must work with Indian tribal and community leaders to effect changes in the root causes of these problems.

In fiscal year 1982, a budget of $634.9 million is being requested for IHS, which includes an increase of $20.5 million in services. It also includes $8.1 million for IHS facilities.

The fiscal year 1982 request for IHS services includes funds for mandatory increases such as increased contractual services, within-grade salary costs, increased cost of supplies, increased cost for Alaska Native Community Health Aid, for Indian alcoholism projects transferred from NIAAA and the equity health care fund which will be funded through redistribution of mandatory cost increases.

The fiscal year 1982 budget request for Indian health facilities of $8.1 million will provide for the completion of construction and equipping the hospital at Tahlequah, Oklahoma and for technical energy studies.

Mr. Chairman, this concludes my opening statement. My colleagues and I will be happy to answer an questions which you and the committee may have.

Senator COHEN. Our next witnesses are Mr. George Hipps, the Acting Deputy Assistant Secretary for Housing of the Department of Housing and Urban Development; Mr. Thomas Sherman, the Acting Deputy Assistant Secretary for Public Housing and Indian Programs and Director of Office Public Housing and Acting Director of Indian Housing; and Mr. Donald Dodge, Acting Assistant Secretary for Planning and Community Development.

STATEMENT OF GEORGE O. HIPPS, JR., ACTING DEPUTY ASSISTANT SECRETARY FOR HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ACCOMPANIED BY THOMAS SHERMAN, ACTING DEPUTY ASSISTANT SECRETARY FOR PUBLIC HOUSING AND INDIAN PROGRAMS; MARCIA A. B. BROWN, ASSISTANT TO DIRECTOR FOR INDIAN COMMUNITY DEVELOPMENT PROGRAM, OFFICE OF POLICY PLANNING; AND LIZA BOWLES, PROGRAM ANALYST, POLICY PROGRAM AND DEVELOPMENT DIVISION

Mr. HIPPS. Mr. Chairman, Mr. Dodge was not able to be here today. I have with me at the witness table, in addition to Mr. Sherman, Marcia Brown and Liza Bowles, representing the Office of Community Planning and Development.

Before I ask that my statement be entered into the record, I would like to state that because of the time constraints the Department was not able to complete the formal OMB clearance process for the testimony. Nevertheless, we do believe that this represents a factual statement of the circumstances and is in accord with the administration's position.

I would like to have my statement submitted for the record and will summarize those things that are most pertinent.

Senator COHEN. Without objection, your written statement will be included in the record hearing at the end of your testimony.

Mr. HIPPS. Basically, since the beginning of the program in 1961, the Department has made available for occupancy a little over 39,000 units of Indian housing on reservations. As of February 28 of this year, we had approximately 15,000 units in our Indian housing pipeline. About 5,000 of these are currently under construction and are expected to be completed and available for occupancy by the end of this fiscal year.

The revised budget, submitted by the President to Congress on March 10, provided sufficient funding to reserve an additional 5,000 units of Indian housing in fiscal year 1981, but does not propose any funds for Indian housing for fiscal year 1982. This action was taken largely because of the extremely large number of units in the production pipeline, the high development costs, the management problems with respect to Indian housing authorities, and the consequent need to determine a more effective and less costly way of providing housing assistance in Indian areas.

We anticipate that at the end of the fiscal year we will still have approximately 15,000 units in the production pipeline. Based on our current track record it would appear that that pipeline will not be exhausted for 3 years.

The development cost of Indian housing is of extreme concern. Costs have increased significantly during the 1970's and we anticipate that is going to continue.

The average total development cost per dwelling unit has increased from $22,000 in 1972 to approximately $68,000 in fiscal year 1980. For budget estimate purposes fiscal years 1981 and 1982 are being estimated at $73,000 and $79,000 per unit, respectively.

The total budget authority cost, which is a reflection of the annual per unit subsidy cost times the number of years of the annual contribution contract, which is averaged at 28 years, is estimated to be $161,280 per unit for fiscal year 1981 and $175,000 per unit in fiscal year 1982. This is the total budget authority cost to the Federal Government over the life of the annual contribution contract.

Senator COHEN. How much was that, Mr. Hipps?

Mr. HIPPS. For fiscal year 1981 it is $161,280 per unit and for fiscal year 1982, $175,000 per unit.

Senator COHEN. How do you arrive at those figures?

Mr. HIPPS. That is the annual subsidy amount per unit times the average life of the annual contribution contract, which is 28 years.

Senator COHEN. Do you factor into that the units built in Alaska?

Mr. HIPPS. Yes. Those units are included in those averages.

Senator COHEN. Are those costs higher in Alaska than elsewhere?

Mr. HIPPS. Yes; they are.

Senator COHEN. Would that account for some of the inflation into the inflated figure that we have as far as the inclusion of the units in Alaska?

Mr. HIPPS. Yes, sir. That is correct.

Senator COHEN. How does the per-unit development costs of one of these housing units compare with the comparable HUD home ownership unit for non-Indians in a similar geographic location?

Mr. HIPPS. We are talking here about traditional public housing. The figures for the remainder of the public housing program, the total development cost estimate for fiscal year 1981 is $58,000 per unit and for fiscal year 1982, $65,000 per unit with a total subsidy cost, over the life of the ACC for fiscal year 1981 of approximately $145,000 per unit and $161,260 per unit in fiscal year 1982.

Senator COHEN. What are the factors that contribute to the distinction between the two?

Mr. HIPPS. With the Indian housing program, we are dealing with the Indian housing authorities who lack, in some cases, the training that is necessary. There are a lot of tribal politics causing continual turnover in the personnel that have the expertise that is necessary and we are building in extremely remote locations where you do not have a stable work force and where construction costs are, overall, much higher.

Senator Cohen. I interrupted your statement.

Mr. Hipps. I have completed the summary of my statement.

Senator Cohen. Fine. You indicated that there are about 20,000 units in the pipeline and construction should proceed at a level of about 4,000 units per year for the next 5½ years?

Mr. Hipps. Essentially there are 15,000 in the pipeline right now. Our fiscal year 1981 reservation total is reflected in the revised budget of an additional 5,000 units and we anticipate 5,000 units going out of the pipeline this year. So, we will end this year with approximately 15,000, assuming no additional units go into the pipeline. That would be a 3-year production figure beyond this year.

Senator Cohen. You do not have any funding for fiscal 1982, so what impact is that going to have on the HUD staff as far as monitoring that construction?

Mr. Hipps. I cannot answer that question specifically. HUD, as most other Departments, is taking a reduction in its overall manpower. We are a workload driven organization and to the extent that our workload decreases there should be some reduction in the number of people assigned to the Indian housing function, but the final figures have not yet been calculated.

Senator Cohen. There is a statement in the budget proposal that there is a backlog of some 22,000 units of HUD Indian housing. What is the estimate of units in the pipeline for Indian Health Services?

Mr. Hipps. We have about 2,600 units under construction which have already received Indian Health Services funds from prior ficsal years. It is our estimate that approximately 13,000 units remaining in the pipeline at the end of this fiscal year will have need of some kind of infrastructure funding.

Senator Cohen. Is there a discrepancy between the number of units between the agencies themselves as to what is backlog and what is pipeline? Is there any confusion about that definition?

Mr. Hipps. I am unaware of any confusion.

Senator Cohen. As of now, what is the funded commitment of dollars per unit in the pipeline?

Mr. Hipps. I do not have that information, Senator. I will have to provide that for the recordd.

Senator Cohen. Would you get me that information for the record?

Mr. Hipps. Yes, sir.[1]

Senator Cohen. Do you have any judgments as to whether these units require the Indian Health Services to provide essential water and sewage facilities?

Mr. Hipps. As I understand the fiscal year 1981 budget for IHS, there is sufficient funds in that budget to provide an additional 4,231 units with water and sewer facilities. As I indicated we have another 2,600 units in the pipeline that already have IHS funds under reservation from prior fiscal years. It is our estimate, at this point, that at the end of the fiscal year, netting out those figures that we will have, there will be around 13,000 units that will need some type of water or sewer funding in order to bring them into occupancy.

Senator Cohen. The essential question is: Is there, in your judgment, sufficient funding to complete water and sewage hookups for those units under construction and those contemplated for construction?

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[1] See appendix, p. 160.

Mr. HIPPS. Not in the IHS budget. The tribes, of course, may make some use of community development block grant funds for certain types of infra-structure, but the source that has been relied upon in the past is not there.

Senator COHEN. The general counsel for the staff has raised a question. Based upon your testimony, we have $58,000 roughly per unit for a comparable unit for non-Indians. It costs $65,000 for an Indian unit including the Alaska factor. The question is: How do you justify terminating the Indian housing but not the non-Indian housing?

Mr. HIPPS. As I think my statement indicates, we feel that there are enough funds in the pipeline to allow a production flow for the next 3 years and that the Department intends to undertake an examination of alternative means of providing assisted housing in general. This subject would be a part of that review.

Senator COHEN. That is all that I have for now. Thank you very much.

Mr. HIPPS. Thank you.

[The prepared statement follows:]

STATEMENT OF GEORGE O. HIPPS, JR., ACTING DEPUTY ASSISTANT SECRETARY FOR HOUSING, DEPUTY FHA COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and Members of the Committee, I am pleased to appear before you today to discuss HUD's Indian housing program.

The Indian housing program actually began in 1961 when it was administratively determined that Indian tribes had legal authority to establish, under Indian law, tribal housing authorities to plan, develop and operate low-income public housing projects. This determination created the first real housing program on reservations and other restricted lands.

Public housing in Indian areas depends on cooperation from other Federal agencies, such as the Bureau of Indian Affairs (BIA) for roads and the Indian Health Service (IHS), Department of Health and Human Services (HHS), for water and sewer. Each Indian Housing Authority (IHA) administers its housing, which is generally either rental or homeownership opportunity housing.

To finance the development costs of the projects, the IHA sells notes or bonds to private investors. HUD agrees to pay annual contributions in an amount sufficient to assure payment of the annual debt service (principal and interest) and these annual contributions are pledged as security for the local housing notes and bonds, thereby enabling them to be sold at relatively low interest rates. By Federal law, these notes and bonds are exempt from Federal taxation, thus creating an additional incentive for investors.

Under the rental program, the contract is for 30 years and the dwelling units, upon completion, are rented by the housing authority to low-income Indian families. If rents from tenants are not sufficient to pay the housing authority's operating expenses, operating subsidies may be paid by HUD under certain conditions to ensure the low-income character of the projects. Indian rental projects also are eligible for the modernization program for improving low-income public housing projects.

The mutual-help homeownership opportunities program was begun in 1964 in an effort to provide an alternative to rental housing and now constitutes approximately 70 percent of public housing assistance in Indian areas. The underlying concept of the program is to provide an opportunity for ownership which will be a strong incentive for participating families to aid in the building and maintenance of their homes. Each participating Indian family must make a substantial contribution toward the cost of the dwelling unit (at least $1,500) in the form of land, work, cash, materials or equipment. This obligation can also be met by tribal contribution of the building site and, where feasible, local building materials. The participants receive equity credit, in amounts approved by HUD, toward the purchase of their homes in lieu of cash for their contributions. After construction, the homebuyer occupies the unit under a lease-purchase type of contract and is obligated to maintain the home, pay the utility costs, and make a required monthly payment.

Normally, the participating family will acquire title at the end of 25 years. However, if the family's income increases and it makes correspondingly higher payments, its equity builds up faster, thus shortening the period of time before becoming a homebuyer.

For a variety of reasons, Indian Housing Authorities have frequently been ineffective in managing and maintaining existing units: inadequate or lack of management/maintenance training; insufficient funding; and, tribal politics. Specifically, IHAs have difficulty in the following areas: hiring and retaining adequate staff; collecting rents and homebuyer payments; maintaining adequate management controls and accounting records; and budgeting.

From the beginning of the program through February 28, 1981, 39,095 units have become available for occupancy. As of February 28, 1981, there were about 15,000 units in HUD's Indian housing pipeline. Almost 5,000 of these units are currently under construction and will be completed and available for occupancy by the end of this fiscal year.

The revised Federal budget submitted by the President to Congress on March 10, 1981, provides for sufficient funds to reserve 5,000 units of Indian housing in FY 1981. The budget does not propose any funds for Indian housing for FY 1982.

The action on Indian housing was taken because of the large number of units in the production pipeline, the high development costs, the management problems referred to above, and the consequent need to determine a more effective and less costly way of providing housing assistance in Indian areas.

As indicated above, by end of FY 1981 there will be approximately 15,000 units in the production pipeline (the 5,000 additional unit reservations in FY 1981 will balance the 5,000 units that are completed during the remainder of the fiscal year.) Based on the recent track record of actually moving 5,000 units per year to actual occupancy, the pipeline as of the end of FY 1981 will not be exhausted for 3 years.

Development costs remain one of the primary on-going concerns with the Indian housing programs. Costs have increased significantly during the 1970s, and they can be expected to continue. The average total development cost per dwelling unit (the cost of dwelling construction and equipment, site improvements and IHA costs of administration has increased from around $22,000 in FY 1972 to approximately $68,000 in FY 1980). The estimated figures for FY 1981 and FY 1982 are $73,000 and $79,000, respectively.

Some of the major reasons for high costs are:

Labor Force Availability.—The remote location of most reservations means that a trained residential construction labor force is frequently unavailable. Nonresident labor is more difficult to obtain, and must often be paid high transportation and/or living expenses.

Lack of Infrastructure.—On-site roads, water and sewer systems, and provision of electricity constitute an exceptionally large portion of site development costs, and often amount to 30–40% of total per unit development costs. Although BIA and IHS are responsible, respectively, for providing roads and water and sewerage facilities to site, HUD bears these costs within individual homesites and multi-unit sites. Development costs are also increased by any delays in completing these facilities, and frequently by lack of all-weather access roads.

Site Availability.—The lack of construction site on which development is economically feasible is an increasingly serious problem on many reservations. The number of sites with the necessary access roads, with access to water and sewer systems (or which are suitable for on-site development of such systems), and which can be readily provided with electricity are frequently very limited.

Let me explain how costs of Indian housing are reflected in the HUD budget. The Contract Authority for a project is the annual contributions HUD pays to service the debt for the project. It is a product of the Total Development Cost times the interest rate idendified in the Annual Contributions Contract to liquidate the Total Development Cost over the term of its ACC. The annual contributions per unit is estimated to be $5,760 in FY 1981 and $6,250 in FY 1982. The Budget Authority is the project's run out costs or the costs to the Government over the term of the ACC. It is a product of the Annual Contributions times the project term. For Indian Housing, a 28 year term is used, which is an

average of the 25 year Mutual-Help term and the 30 year rental housing term. The budget authority or total run out costs for Indian housing are projected to be $161,280 per unit in FY 1981 and $175,000 per unit in 1982. (The $175,000 is the actual annual contributions times the 28 year average term.)

Mr. Chairman, this concludes my prepared remarks and I will be pleased to respond to your questions at this time.

Senator COHEN. We are going to hear next from Dr. John Rodriguez, the Acting Assistant Secretary for Elementary and Secondary Education. Dr. Rodriguez is accompanied by Mr. Louis McGuinness, Acting Special Assistant for Indian Education; Ms. Judy Baker, Acting Deputy Director of the Division of Program Operations; Mr. Leo Nolan, the Education Program Officer for Training and Evaluation; Mr. Frank Robinson, the Acting Chief for Program Administration; Dr. Harry Phillips, Acting Deputy Secretary for Congressional Services; Ms. Sally Christensen, Acting Assistant Secretary for Planning and Budget. I hope that we have enough chairs for all of you here.

Dr. Rodriguez, would you like to proceed?

STATEMENT OF JOHN H. RODRIGUEZ, PH. D., ACTING ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION; ACCOMPANIED BY: LOUIS McGUINNESS, ACTING SPECIAL ASSISTANT, INDIAN EDUCATION; JUDY BAKER, ACTING DEPUTY DIVISION DIRECTOR, DIVISION OF PROGRAM OPERATIONS, OFFICE OF INDIAN EDUCATION; LEO NOLAN EDUCATION PROGRAM OFFICER, TRAINING AND EVALUATION, OFFICE OF INDIAN EDUCATION; FRANK ROBINSON, ACTING CHIEF FOR PROGRAM ADMINISTRATION, OFFICE OF INDIAN EDUCATION; HARRY PHILLIPS, PH. D., ACTING DEPUTY ASSISTANT SECRETARY FOR CONGRESSIONAL SERVICES; AND TOM SKELLY, ACTING DIRECTOR, BUDGET REVIEW, OFFICE OF PLANNING AND BUDGET

Dr. RODRIGUEZ. Thank you, Mr. Chairman. If I may first make a correction to the witness list. Sally Christensen, the Acting Assistant Secretary for Planning and Budget is unable to be here and in her place is Mr. Tom Skelly, who is the Acting Director for the Budget Review.

If I may submit the statement for the record, I would like to highlight it at this time.

Senator COHEN. Without objection, your entire written statement will be inserted into the hearing record at the end of your testimony.

Dr. RODRIGUEZ. This budget request has a threefold strategy.

First, it will provide supplemental education services to Indian children in public and tribal schools. Second, it provides three funding sources to improve the quality of services, and third, it provides resources for basic skill and professional training for adults.

This budget request totals $81,096,000 which is a slight decrease of $584,000 below the 1981 appropriation level.

Under part A, the budget request is $57,250,000, a decrease of $1 million from the 1981 level. This will allow for an average per pupil expenditure of $161 per student for supplemental education services to Indian children in public and tribal, elementary and secondary schools.

The sum of $52.2 million will allow for 1,180 grants to be made under the formula program, serving 316,000 Indian children in public schools and 10,000 in tribal schools.

Senator COHEN. Let me interrupt you there. What is going to be the impact of that kind of a cut under part A, particularly after you have had a 12 percent inflation rate? What is going to be the impact on the quality of the education?

Dr. RODRIGUEZ. We anticipate that the impact will lower per pupil expenditure by approximately $4 per pupil in comparison to 1981, but given the inflation rate, I would imagine some services would be constrained when compared to the level currently offered this year.

Senator COHEN. Are you aware of any priorities of the curtailment of those services?

Dr. RODRIGUEZ. No. Services would be judged by the local education agencies and by the Indian controlled schools for which the services are provided.

Twenty-nine Indian controlled schools, serving 5,000 Indian youngsters, will receive support under the discretionary grant program of part A. The funds provided under part A are intended to increase academic performance, reduce dropout rates and enhance culturally relevant academic programs.

The part B request of $15.5 million is an increase of $1 million over 1981. In operational terms, however, it becomes a decrease of $1 million due to the change in funding for the resource and evaluation centers from forward funding during 1980 to current fiscal year funding during 1981.

The education personnel component is at the same level as 1981, as is the education services component of part B.

Resource and evaluation centers will be funded at the same operational level as 1981. As you may know, these centers were funded this year with $2 million from 1980 funds and $500,000 from 1981 funds.

Under part C, $5.4 million is requested to support special projects for Indian adults. This is the same level as 1981. Funds in this category will serve approximately 8,400 Indian adults.

For part D, $2,916,000 is requested for program administration, planning, and evaluation studies. This request includes funding for the National Advisory Council on Indian Education at about the same level as in 1981.

The request is $584,000 less than 1981 because of the decrease in planning and evaluation activities.

Mr. Chairman, my colleagues and I will be glad to answer any questions that you may have on the budget statement.

Senator COHEN. I just picked up on that last point that you made: that the program administration budget for the next fiscal year has been cut by $584,000 and you expect that that will be achieved by decreasing planning and evaluation activities? What impact will that have on the quality of the programs in your judgment?

Dr. RODRIGUEZ. There was, as you know, a large study that is near completion. It will be a reduction in these studies that will affect the savings, so to speak, on outlays in that budget category. It is not anticipated that there will be a significant change in the quality of education because of that reduction.

The change in services under part A and part B comes about because of the funding for the resource and evaluation centers which will have a positive effect on educational services.

This year, for example, in their first year of operation, there are some school districts that are receiving services through the centers that had not previously received services. Therefore, we believe that it will, in fact, enhance the quality of educational programs being offered at the various sites.

Senator COHEN. Doctor, the Indian health manpower program in the Indian Health Service is scheduled to be phased out within the next 2 years. This is justified on the basis that there are other scholarships available through the Office of Indian Education and I was wondering how many scholarships have been awarded by the Office of Indian Education to students in health profession schools over the life of this program?

Dr. RODRIGUEZ. Over the life of the program, just in health professions, about 211 fellowships have been awarded.

Senator COHEN. Which health profession students, in addition to those M.D. programs are eligible for OIE scholarships currently?

Dr. RODRIGUEZ. The health related programs are veterinary medicine, nursing, dentistry, optometry, clinical psychology, and pharmacy.

Senator COHEN. If you have the Office of Indian Education which funds about 25 percent of applicants in the fellowship program, or slightly over 200 students in all of the eligible fields of study, my question is, How many of the students who would have been funded by IHS will OIE now be able to absorb?

Mr. MCGUINNESS. I would believe none of them, sir, because there were 37 applicants this year in medicine and our conjecture is that we will be able to fund only 13 of those. That is an estimate and it might be 12 or 13.

Ms. BAKER. There is also another programmatic difference. IHS is able to make health scholarships at any level, undergraduate or graduate. Ours are limited to graduate students only.

Senator COHEN. How is the administration's request for impact in aid going to affect public schools serving Indian reservation children?

Dr. RODRIGUEZ. The impact aid request puts priority on category A children, that is children who live on Federal property and whose parents work on Federal property or are in the uniformed services. It also places priority on "super A" districts having 20 percent or more category A students. The amount for "super A" districts will be funded at about 90 percent of entitlement. The effect of the 1982 request compared to the 1981 rescission result in a $18.2 million decrease in funds for Indian children. However, the 1981 rescission is some $4.4 million less than the actual budget in 1980. Therefore, the 1982 request is $33 million below the 1981 continuing resolution.

Senator COHEN. What amount is being requested for fiscal 1982 for the construction of public schools on Indian reservations under Public Law 81-815?

Dr. Rodriguez. Under section 14 of Public Law 81-815, the 1981 continuing resolution is at $22 million and in the 1982 budget we are requesting $30 million, an increase of $8 million.

Senator Cohen. Is that funding used for renovation of existing buildings or for construction of new facilities?

Dr. Rodriguez. It is for both.

Senator Cohen. How many schools are going to be affected?

Dr. Phillips. We estimate that approximately six additional facilities will be constructed, Senator.

Senator Cohen. Do you have a priority list in terms of those scheduled for renovation and construction?

Dr. Phillips. Yes; we maintain a priority list. However, that priority list is subject to change with each new round of applications. So, for each fiscal year, new applicants are invited to submit applications and then a new priority determination is adopted.

Senator Cohen. So, each year you try and update that depending upon what the requests are as they come through?

Dr. Phillips. Yes, sir.

Senator Cohen. That completes all the questions that I have for the moment.

Dr. Rodriguez. Thank you, Mr. Chairman.

[The prepared statement follows:]

PREPARED STATEMENT OF JOHN H. RODRIGUEZ, ACTING ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION

Mr. Chairman and members of the committee: Thank you for the opportunity to appear before the Committee today to discuss the fiscal year 1982 budget for Indian Education. As part of the President's overall economic recovery plan, funding for many programs will be reduced.

This program will advance the education of American Indians and Alaskan natives who are among the most needy segment of our population. Because of the extent of need; the Indian Education program budget represents nearly level funding with 1981.

In support of Indian Education, we follow a three point strategy: providing supplemental educational services to Indian children in public and tribal schools; improving the quality of services provided under the Act; and providing basic skills and professional training for adults. An underlying objective of all of these programs is to promote Indian self-determination and self-sufficiency. Our budget request totals $81,096,000 which is $584,000 below the 1981 appropriation.

This budget supports programs that involve virtually every segment of the Indian population—young children, junior and senior high school students, parents, college students, and adults. Our program reaches children through supplemental programs in public schools and through special activities administered by their tribes or Indian community organizations. They reach college students through grants to universities and through fellowships that are awarded directly to the students, and they reach adult learners through special community and home-based adult education programs.

The budget request can be examined under Parts A, B, C and D of the Indian Education Act.

PART A

Part A addresses the special educational and culturally-related academic needs of Indian students in public elementary and secondary schools and in tribally controlled schools. The amount of a grant to a local education agency is determined by a formula based on the number of Indian students enrolled and the State average per pupil expenditure. Appropriations always necessitate a ratable reduction in the amount of money granted to the applicant. In order to qualify for the grant, the local public agency and the tribally controlled schools must conduct a verifiable count of Indian students enrolled and give certain assurances concerning the involvement of Indian parents in educational planning and in carrying out special programs for Indian students.

A total of $57,250,000 is requested for part A, a decrease of $1,000,000 from 1981. Of this amount, $52,250,000 would be applied to the formula program, resulting in a per pupil expenditure of $161. In addition, $4,730,000 would support discretionary awards to Indian-controlled schools.

Part A formula grants will be made to an estimated 1,130 public school districts that enroll approximately 316,000 Indian students, and to 50 tribal schools that enroll about 10,000 students. A present part A grants serve about 80 percent of Indian children who attend public or tribal schools. The remaining districts tend to have relatively few Indian children and thus do not apply for these grants since the amount of the award would not be significant.

The request of $4,730,000 for Indian-controlled schools is at the same level as 1981. This amount constitutes 9 percent of the formula grant funds rather than the full 10 percent set-aside as in 1980 and past years. Many of these schools now receive basic support from BIA. The BIA devised a funding formula which should provide a level of support based on need. In addition, many of the Indian-controlled schools are eligible for formula grants as tribal schools under part A. For these reasons, the request for Indian-controlled schools is held at level with 1981.

Funding for the Indian-controlled schools program will support about 29 grants and 5,100 students. The average grant is estimated at $163,000.

PART B

Part B of the Indian Education Act provides a legislative authority to support programs to provide direct educational services to Indian children and adults. This portion of the law was designed to provide models, demonstrations, and new approaches to improved educational opportunities for Indian children and adults. Another objective of this portion of the Indian Education Act was to assist in higher educational training for needy Indian students to become effective teachers of Indian children and to also fill severe shortages among the Indian population in the professional graduate fields.

In accordance with the legislative authority, part B portion of the Indian Education Act has been subdivided into five programmatic areas. They are: (1) Planning, Pilot, and Demonstrations, (2) Educational Services, (3) Educational Personnel Development, (4) Indian Fellowship Program, and (5) Resource and Evaluation Centers. We administer four of these programs as nationally competitive activities. That is, eligible applicants are invited to submit proposals by a specified deadline date. All applications are then evaluated by panels of independent readers. The National Advisory Council on Indian Education is also involved in the process. The approvable projects are then ranked and funded until available resources are exhausted. The Resource and Evaluation Center's program is operated on a contractual plan in accordance with Federal procurement standards.

The request of $15,500,000 provides for an increase of $1,000,000 above the 1981 appropriation. Part B complements activities supported under part A to improve educational opportunities for Indian students. The emphasis under part B is to develop more effective approaches, to train qualified educational personnel, to provide services were none exist, and to help Indian students pursue postsecondary education.

This budget requests $3,500,000 for 25 planning, pilot and demonstration projects for Indian children. Under educational service projects, $4,000,000 is requested, the same level of funding as in 1981. These funds are used for early childhood education, special education, tutoring, and counseling programs which will serve 2,774 children in 19 projects. Under educational personnel development, $4,000,000 is requested, the same level as in 1981 and will support 20 training projects and serve about 887 Indian people. Project reports on this program indicate high placement rates of graduates.

Under the Indian fellowship program, level funding of $1,500,000 is requested to support graduate study in medicine, law, and education, and undergraduate or graduate study in engineering, business administration, and natural resources. A total of about 205 fellowships will be awarded. Finally, this budget requests $2,500,000 for the Resource and Evaluation Centers. This represents an increase of $2,000,000 over 1981 to fund 5 centers.

PART C

The part C program of the Indian Education Act is an adult education program. Its objective is to provide basic academic and employability skills to adult Indians who do not possess them. A wide range of agencies including public educational agencies as well as Indian tribes, institutions and organizations are eligible applicants. Grants are awarded on the basis of a national competition similar to the procedures previously described under part B.

The program is divided into two subparts; one designed to support basic instructional services, and the second is a demonstration type program to elicit new and imaginative methods of treating the persistent problems inherent in providing basic education for adult Indian populations.

The $5,430,000 requested for part C will be divided into two parts. The first part, or $3,980,000 is planned for expenditure in the basic services portion of the program; the other $1,450,000 is planned for expenditure in the demonstration project area. This division of anticipated resources will permit the funding of an estimated 38 projects in basic services serving 7,337 Indian adults. We expect to fund about 12 projects in the planning, pilot, and demonstration category serving 1100. Our intent of this part is to support a few projects designed to demonstrate more efficient and effective methods of teaching basic skills particularly to hard-to-reach Indian adults.

PART D

The Indian Education Act, unlike many of the legislative authorizations for other Department programs, carries a unique authority for funding the Office of Indian Education and the National Advisory Council on Indian Education.

We are requesting $2,916,000 for these purposes for fiscal year 1982. This is a decrease of $584,000 from the 1981 appropriation. In order to meet this reduction, we are not undertaking some planning and evaluation studies which were previously contemplated. We plan to make $211,000 of the request available to the National Advisory Council on Indian Education. This level will permit the Council to maintain its workload and to fill a vacant position on its staff.

I am pleased to present this statement to you today. My colleagues and I will be glad to answer any questions that you may have on this budget or the Indian Education program.

Senator COHEN. We have a final panel for the day. They are members of the National State Indian Groups: Mr. Ronald Andrade, who is executive director of the National Congress of American Indians; Mr. Ken Black, executive director of the National Tribal Chairmen's Association; Ms. Suzan Harjo, the legislative liaison for the Native American Rights Fund; and Ms. Loretta Allen of the California Indian Education Association.

We will be happy to have you proceed in any manner you deem fit. Who would like to lead off?

STATEMENT OF KENNETH BLACK, EXECUTIVE DIRECTOR, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, ACCOMPANIED BY WENDELL CHINO, CHAIRMAN, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Mr. BLACK. Mr. Chairman, I am Kenneth Black. I am executive director of the National Tribal Chairmen's Association and with me is the president, Mr. Wendell Chino, who is not only president of the National Tribal Chairmen's Association, but also president of the Mescalero Tribe. He told me to hit the high points and then if you have any questions we would be glad to answer them.

Mr. Chairman, members of the committee, the effect of the administration's $1.1 billion fiscal year 1982 budget reduction for reservation Indians will be devastating unless Congress makes some fundamental changes. In jobs, there is 40 percent to 50 percent unemployment. Tribal government and the elimination of CETA, PSE, HUD's 301 EDA planning, ANA planning and the Legal Services Corporation, all of which provide essential tribal staffing and planning functions, will practicallly shut down tribal governments.

Reservation development efforts to move away from the dependency on the Federal Government for every economic need will stop or be reversed due to the elimination of EDA, HUD, severe cuts in health services, and a general lack of Federal planning and support. All of this is especially tragic because it is not the desire nor the plan of the administration to exclude Indians as bad as we perceive. It was probably an accident due to the fragmentation of our system. Nobody was aware until last week what the total effect would be on Indian communities. It certainly is not consistent with the administration's policy.

The following is a highlight summary of budget reductions and I am sure that you have seen these:

A reduction of $76 million for the BIA; $156 million from IHS; $5 million, plus, out of ANA; $102 million from the Department of Labor; $703 million from HUD—and I should like to point out that the Indian tribes never participated in HUD programs until about 4 or 5 years after the law was passed, and HUD never attained the 4,000 units per year that they were supposed to build. In fact, I think the highest amount of houses was about 3,400. Each year the Indian tribes had to take a cut due to budgetary restrictions, President Nixon's moratorium, and the inability of HUD to provide Indian housing with 4,000 units per year.

If the cost is $175,000 per building, I can assure you that you nor I would give $45,000 for any of the houses that have been built for Indians.

Senator COHEN. I think the figure that he used was the cost of the amortization over the life of the unit itself.

Mr. BLACK. I hope so.

Senator COHEN. I would hope so also. If we were talking about a cost of $175,000 per unit I think we would have to have at least several congressional investigations as to why!

Mr. BLACK. Yes, sir. We have seven recommendations that we offer.

First is EDA's authority and its money should be transferred to the Bureau for economic development.

Second, that the jobs lost from CETA be saved and also transferred to the Bureau.

Third, that the Bureau should be renovated to really address economic development and it should do so with systematic consultation with Indian tribes prior to making changes.

Fourth, block grants to Indians from departments other than Interior should be made on a "set aside" method through the BIA as though the Bureau can act as if it were a 51st State.

Fifth, Indian Health Service cuts must be examined more carefully and somewhat restored.

Sixth, if there is a backlog of HUD housing, the houses should be built.

The above suggestions should all be considered stop-gap measures for a year or so, while this administration comprehensively examines Indian affairs and comes up with a detailed program of development.

I would like to close this statement on this note. We can avert this tragedy, but we need your help to do it. We are sincerely asking you for that help.

Senator COHEN. Thank you, Mr. Black. Obviously you were sitting here this morning and listening to the testimony. The thrust of all the testimony this morning was that by consolidating programs, reducing by 25 percent the budgets in many respects, and transferring this responsibility back to the tribes, you will have a more efficient expenditure of the Federal tax dollars. What is your response to such a proposal? This is something, as you have indicated, not only touching Indian tribes but many, many people all across this country. The same, basic, philosophy is going to be employed; namely, reducing the role of the Federal Government's intervention or control or supervision or management and placing more of that responsibility directly back into the hands of people at the local level. Now that is something that is going to be pursued as a philosophy or a policy and I was wondering what your reaction to that is? Why could you not have a better expenditure of tax dollars with more discretion if prioritizing is given to the tribes themselves?

Mr. BLACK. I think the concept is good. However, we are fearful that only the Bureau will be providing the services; only the Indian Health Services. We feel we should be participating in the block grants, which go to States, and we will be left out of the process unless we have your assistance in making sure that Indian tribes can provide their people with these block grants, so to speak.

I have never heard of anyone objecting to the theory. What I express fear in is that the Bureau is the only agency which is going to administer block grants, then they are going to lose out in all the rest of the programs. Mr. Chino can provide a better answer on that.

Senator COHEN. Before he answers, I am going to ask a question that Senator Gorton wanted to ask but had to go to another meeting. He said he would like to know whether the tribes would prefer a direct appropriation to tribal authorities of $2,000 per capita with full management authority, over a BIA supervision? In other words, Senator Gorton would like to know whether you would prefer to have a direct grant of $2,000 per head and eliminate BIA?

Mr. BLACK. I think, sir, you would be throwing trust responsibility to the wind. Most tribes feel as though the U.S. Government and its agencies should not shirk from that responsibility. We have given up too much for the very little that we receive.

Senator COHEN. I am not going to speak for Senator Gorton, but I think that the crux of his question is: Would the tribes prefer to have direct control or direct access to the money rather than going to several levels of bureaucracy to achieve what is ultimately a more expensive program and, perhaps, less efficient? I think that is what he is asking in that question.

Mr. CHINO. I think in terms of receiving the largest program dollar that Indian tribes could expect. I believe that is the procedure that we would like the Congress to consider. Many times the dollar that is appropriated in the name of Indians is utilized for administrative purposes and we are more interested in the program dollar.

Senator COHEN. I think that is what Senator Gorton is asking. There is a feeling that perhaps it might be more desirable to just make the appropriation to tribes on a per capita basis and eliminate BIA altogether. That is what he is suggesting and, perhaps, that is unrealistic.

Mr. **Chino**. I think Mr. Black's other point is that as long as all of the departments of the Federal Government apply the same procedures, then I would say that we would not suffer so badly. But, we certainly do not want to have such a procedure restricted solely to the Bureau of Indian Affairs or Indian Health Service. I think that all of the other departments of the Federal Government should make provisions for the Indian constituency.

Senator **Cohen**. Do you have any statement that you would like to make Mr. Chino?

Mr. **Chino**. Yes; I would like to just add a little bit. We are concerned about the administration's budget cuts, just like everyone else. What discourages me is that the economist, perhaps, have some scientific basis to do what they are saying. On the other hand, I am not so sure that Mr. Stockman has any scientific mile posts for budget reductions. For instance, the financial spinoff that is expected certainly will not materialize on any Indian reservation or Indian community because there is no industry to the extent that it would make that financial spinoff possible on an Indian reservation. So, that is a sort of fallacy, which I am talking about, which may not be true in another part of the country.

The other is that the education of young people is vitally important and I think that the education of our young people should be looked at from the perspective of an investment in young people and an investment in the future of this country. We cannot protect a 100-year-old millionaire because he is finished. Whereas, if you invest in young people, I think that they stand to benefit the country and we will all benefit from it.

For instance, the GI bill of rights. That has benefited a great deal of Indian young people and for that matter other young people who otherwise might have had no ability to acquire an education. I think that this has well proven that it has been to the country's benefit to educate the young people. I am sorry that, as I look at the budget reductions, that the human element is being forgotten and if it continues to be forgotten, I think that it would be disastrous to Indian people. The budget reduction, I think, for the most part, will slow down the development of the Indian community. I know that the Congress is interested in emerging and developing nations. Well, the Indian people are just as much a part of this development process. To make these drastic cuts, I think is to move the tribes back 30 to 50 years.

We want to continue to progress along with the rest of the country and these budget cuts will practically bring the developments in the Indian country to a halt. I think that Indian housing has already been mentioned and that is also vitally important to the Indian people.

At the time that the public housing in this country began, the Indian people were not included because of a legislative oversight and we had to have it corrected. By the time that Indian housing was implemented, the Indian people were about 30 years behind and we have just begun to try to attempt to catch up with the housing needs in the Indian community. We would like to make a request that Indian housing be maintained at such a level that the total welfare of Indian people might be enhanced. In urging that, I would just like to say that the Indian tribes, I believe, would prefer direct funding rather than through the various States, to save the program dollar.

Thank you very much.

Senator COHEN. Thank you.

Mr. Black, before we go on to other members of the panel testifying, on page 2 of your testimony you have some figures that you have developed. Under, for example, 1, 2, 3, and 4 you talked about the cut in BIA and what this will do to eliminate some 12,000 employees. Under IHS, minus $156 million, there will be a weakening of the economic development and tribal governments. Under DOL you have got 10,000 jobs at stake, and you go on and on. Since the witnesses before us this morning could not come up with any figures, how did you arrive at these figures? I would be interested to know.

Mr. Stockman has not given us any indication yet; so how did you develop such figures?

Mr. BLACK. Our employment figures for years have been around the 40- to 60-percent level. CETA was one of the Government programs which Indian tribes became eligible for and utilized on their reservations very heavily. So, when I say 10,000 jobs will be affected, sir, I think that is a very conservative estimate. The 12,000 employees figure was obtained when I called the Bureau and they informed me that they had 16,000 employees, but due to not filling the positions it may be down to the 12,000 level—that is a conservative estimate. We found that the budget will cover not only the Bureau's operations but leave very little for programmatic activities.

Senator COHEN. You label BIA as having a fat labor force. Do you think that BIA is overstaffed?

Mr. BLACK. A lot of these people are Indian people who will be affected by job cuts, I presume.

Senator COHEN. What I am asking is, do you think that BIA's administrative staff is overstaffed?

Mr. BLACK. Yes, sir. I have to admit that I feel like it is overstaffed.

Mr. CHINO. I think that what Mr. Black is attempting to say is that the fat is in the Washington bureaucracy. When the budget cuts are planned, invariably the reservation Indian who might be a GS-2 or a GS-3 in the lower grade is the first to go, while the fat cat continues to control his employment. We believe that these budget cuts in reverse, should happen in order to continue the development——

Senator COHEN. In other words, people in Washington are not going to be cut, only people out in the field. That is what we were trying to get at this morning in terms of finding out where those reductions are going to impact. Presumably there will be a 25-percent reduction in administrative expenses and the program levels themselves will remain the same. I have doubts about that and I expect that you share those doubts.

Mr. BLACK. In the process called RIF—reduction in force—I have seen these operate. RIF seems to save all the 11's, 12's, 13's, and 14's, but lets the 5's and 6's go down the drain. These are the locations where our people are—in the 4, 5, maybe 7—and the fat of the budget, as

Mr. Chino so aptly described it, is in these huge salaries where there are 12's, 13's, and 14's who have been in the service for 20 or more years. Sir, I venture to say they are drawing as much as you are and I do not know what your salary is.

Senator Cohen. Without objection, we will include the entire written statement from the National Tribal Chairmen's Association in the hearing record.

[The statement follows:]

Prepared Statement of the National Tribal Chairmen's Association, Submitted by Kenneth E. Black, Executive Director

Mr. Chairman and members of the Committee, I represent the National Tribal Chairmen's Association (NTCA). The NTCA is composed of the elected chairmen, presidents, chiefs and governors of the federally recognized tribes of our country. For them, I wish to thank you for the invitation to present our concerns on the President's proposed 1982 budget as submitted to Congress.

Effects of the administration's $1.1 billion fiscal year 1982 budget reduction for reservation Indians will be devastating—unless Congress makes some fundamental changes in them.

Jobs.—Reservation unemployment will go up to even worse levels than the dismal 40-50 percent we presently have, this will become more and more evident as we examine these budget cuts later.

Tribal government management.—Elimination of CETA (PSE), HUD 301, EDA planning, ANA planning and the Legal Services Corp., all of which provide the essential tribal staffing and planning functions, will practically shut down tribal governments.

Reservation development.—Efforts to move away from the dependency on the Federal Government for every economic need will stop or be reversed due to the total dismantling of the Tribal government work force, the elimination of EDA, the elimination of HUD, severe cuts in health services and a general lack of Federal Government planning and support.

All of this is especially tragic because it is not the desire nor the plan of the administration to exclude Indians as bad as we perceive. It was probably an accident due to the fragmentation of the Federal delivery system—nobody was aware until last week (some agencies are still calculating) what the total effect would be on Indian communities. It certainly isn't consistent with this administration policy to create more welfare and curtail "supply-side" development, (development that Indian communities want as much as the administration does).

The following is a highlight summary of budget reductions. As best we can tell, they are, for the most part, very accurate:

1. BIA ($76,000,000).—The BIA reduction is a disaster but only a minor disaster when viewed with the total Federal Government reduction. What we dislike most about it is that the cuts were cleverly passed onto the tribes instead of seriously cutting the BIA's fat labor force of 12,000 employees. The Bureau also didn't consult any Indians that I know of, on this budget.

2. HHS (IHS) ($156,000,000).—It is just inconceivable to think that Indians with the worst health problems in the country could be singled out for a 20-percent cut especially when this is the only practical health service delivery program available to them. (ANA) (—$5,800,000). Of this amount $3.1 million would be cut from T.A. and research demonstration and evaluation weakening Tribal economic development and Tribal governments.

3. DOL ($102,400,000).—We anticipate this will mean the loss of 10,608 jobs directly, a large part of which are tribal government positions.

4. HUD ($703,000,000).—The entire HUD budget, no more housing, no more planning, and the complete elimination of IHS counter parts in water and sewage. We have not yet estimated the number of Indian jobs losses connected to the construction of these houses.

5. EDA ($24,723,000) the entire EDA budget, though it hadn't been run to our satisfaction it was the only real source of capital development available to reservations.

6. CSA ($5,210,000).

7. USDA ($15,028,000).—Estimated.

8 DOED ($25,000,000)—Estimated.

9. Legal Services Corp. ($5,584,000).—Tribal eliminations.

This comes to $1,118,745,000 or, of a conservatively estimated planned budget of $3.1 billion, a 35 percent reduction.

This, on Indian reservations where the only money is Federal money, will indeed be disastrous.

What I feel most disappointed in all of this is that the administration has missed a "golden opportunity" to correct a host of ills that had plagued Indian country for many years and save some money at the same time. We had also anticipated a reduction of government fragmentation, regulation and high cost bureaucrats; all we see now are drastic cuts to vital programs. I am further disappointed because this administration pledged it would honor the Federal Government's responsibility to Indians and seems to fundamentally want to help Indians move away from "dependency" on the Federal Government and help us develop our natural resources. We cannot do this with this kind of budgetary approach. We cannot except the private sector to pick up the unemployed—there is no private sector to speak of. We cannot expect industry to expand on the reservations because there is not capital development available to tribes, in addition with these cuts there will be only skeleton tribal governments left leaving us with weakened leadership, facing worse political situations due to worse poverty.

All is not lost yet, however, with the help of Congress we can still save the situation and I would like to offer some suggestions as start off points:

1. EDA authority and its' money should be transferred to the BIA.
2. The jobs lost (from) CETA must be saved and also transferred to the BIA.
3. The BIA should be renovated to really address economic development and it should do so with systematic consultation with Indians prior to making changes.
4. Block grants to Indians from departments other than Interior should be made on a "set aside" method through the BIA as though the Bureau were a 51st State.
5. IHS cuts must be examined more carefully and somewhat restored.
6. If there is a backlog of HUD housing (as is rumored) the houses should be built—but IHS must have funding to do the water and sewage construction and BIA must have the money to build the roads to the houses.
7. The above suggestions should all be considered stop-gap measures for a year or so, while this administration comprehensively examines Indian affairs and comes up with a detailed program of development.

I would like to close this statement on this note. We can avert this tragedy, but we need your help to do it. We are sincerely asking you for that help.

Senator COHEN. Ms. Allen.

STATEMENT OF LORETTA E. ALLEN, CALIFORNIA INDIAN EDUCATION ASSOCIATION, FULLERTON, CALIF.

Ms. ALLEN. I am Loretta Allen. I represent the California Indian Education Association who have only about 200,000 American Indians living in California at the present time. Our membership comes from a varied group of people. We have virtually all tribes represented in California—educators as well as the housewife and as well as the bureaucrat are represented.

We have some kind of feeling about some of our Indian programs being considered mere social programs instead of, as they are to be considered, treaty programs or Federal trust programs. We seem to get lumped into this thing of being a social program. Where are our treaty rights? We gave up, as the gentleman here said, much of our land. And we gave it up for a small price and for which we are still collecting, or trying to collect. The Federal Government as recently as Public Law 93-638(b)—the Indian self-determination law—they still say that they will be responsible for Indian programs and Indian people because of our treaties with the U.S. Government. If that be so, then we need to have some of the Indian programs maintained and not continually cut back, which, as he has said, sets us back another 30 or 40 years. We have a special relationship with the U.S. Government and we would like to have that kept.

I have letters with this packet representing 307 people and I am expecting a packet at the airport right now to go and pick up. The second part of this just tells who I am and why I am representing anybody. I am going to insert this particular letter because I think it summarizes the feeling of the people from California, at least those that are represented by the California Indian Education Association.

First, title IV, Indian Education Act is unusual in its concept of allowing Indian people the opportunity to make real decisions about their education including providing cultural elements that they regard as vital to their education. This program has never been funded at a level appropriate to carry out the terms of the act and, therefore, to succeed as intended, it should receive increased funding.

Second, the Johnson O'Malley program in California has successfully provided for the identified special educational needs of Indian children not met by other sources. The visible results of this program have proven it to be vital in education our children.

Third, regarding the Tribally Controlled Community College Assistance Act, Indian people, are finally able to bring their higher education of their own choosing to their people through several colleges which they control and operate. The difficulties that these young colleges encounter in securing funds for normal operation and growth are rarely, if ever, continued providing our people with education tailored to their needs. We must make sure that our Indian controlled colleges continue to operate and grow. Therefore, it is urgent that funding be made available to keep this program in operation. In California our Indian institute is D.Q. University.

Fourth, the Administration for Native Americans is one of the few programs available to American Indians regardless of their tribal status or their residential community. Earlier in the day they were talking about the fact that if you live on or near a reservation then you are served by the Bureau of Indian Affairs and if you live someplace else—and nobody has made it clear as to what they mean by on or near a reservation. For instance, in some States they have no reservations at all. In California we have a long, skinny State with many reservations and yet we are considered not to live on or near a reservation.

Senator Cohen. Would a definition be an urban Indian for example? What would the definition be of an urban Indian?

Ms. Allen. I suppose those living in the San Francisco Bay area or the Los Angeles area, Orange County, San Jose and so forth. Yet in southern California we have many small reservations and rancherias and it seems very odd that we are not considered on or near a reservation. In some other States, for instance, Oklahoma and Alaska, everybody is considered to live on or near a reservation, so the definitions do not always jive, but that is beside the point of what I am talking about here.

In the urban areas, the Indian centers that are funded by this administration are very important to the people there and they use the centers not only for health purposes—they go when they have Indian

Health Services there and Indian educational things—it is a social place for Indian people to gather and to meet, and, after all, it was a Government program that put many people into urban areas when they were going through moving people saying that it was good for them to move away from a reservation and move into the cities for better job opportunities. For many of the young people, and many of my age that I meet in the urban areas, they are not better off than they would have been on the reservation, it seems.

Senator COHEN. Do you think there ought to be a new program to try and get them to move to a reservation? You are not suggesting that; are you?

Ms. ALLEN. No, not necessarily because people get used to the urban centers. I am talking about the kind of people that are going back and forth all the time from home to the urban center for work and I think some Indian people do it more than others.

When we have block grants, are the tribes going to serve their people that are in urban areas, or will this be left up to the States and, if so, how do we go about getting a piece of that kind of service for our people? They keep saying that, hopefully, somebody else will pick up these kind of programs. I do not know who is going to pick them up, unless it comes through the Bureau of Indian Affairs or comes through from Washington. Otherwise, I do not think they are going to pick up on dropped Indian programs. They have not, historically, anyway.

So, this program, the Administration for Native Americans, is a very important one and designed to provide things for the Indian people. The things that they have done in education have been beautifully done, but, unfortunately, A. & A. funding has not kept up with the inflation rate in recent years, and if you do not have good granting, you cannot have good funding, and if you do not have funding then you cannot do good planning. So, the two things defeat each other it seems like.

Fifth, the Indian Tribe Welfare Act is only 2 years old and just beginning to be implemented. It is an essential part of the concept of tribal sovereignty, designed to halt the illegal adoption of Indian children and to provide specific special services for public agencies.

Increased self-sufficiency can be realized by Indian people through application of the ICWA aid. I think that the Indian people in California feel that this program should be increased and not cut.

We have an addendum on the back page on Indian housing. Your administration has asked Congress to wipe out the Indian housing program. It has been stated that there is a backlog of Indian houses in the HUD pipeline now awaiting completion by other Federal agencies. This proposal is a classic example of the right hand of the Government not knowing what the left hand is doing. For example, OMB has failed to coordinate this section of the budget, resulting in a decreased funding of all Federal support systems necessary for the completion of these houses and we will have houses without any sewage or water coming down the pipeline, or something of this nature. Where is this money going to come from? They keep saying, well, let the tribes do it through their block grants. The block grants are not going to be that large and I do not understand where the money is going to come from in order for the tribes to do these things. To, in fact, take over what the Indian Health Service has failed to fund.

The next is Indian Legal Services. Your administration has also asked Congress to cut off legal aid to the poor proposing to abolish the Legal Service Corporation which funds 27 Indian and Alaskan Native legal assistance programs in 22 States. This program is the only avenue to justice for poor Native American tribes and people. Under your proposal Indian country will lose 185 attorneys and 80 paralegals and tribal court advocates, as well as the assistance of 13 attorneys of the Indian Law Support Center of the Native American Rights Fund. Total funding of legal services to Indian people is $6 million, less than 2 percent of the Legal Services' budget. The Indian Legal Service program was successful and a cost-effective manifestation of the U.S. Indian policy, providing the poorest people of the Nation access to the highest courts of the land. Especially in this tight budget era, when tribal economy can ill afford to be further depressed, the Indian Legal Service program deserves priority attention and full funding.

Thank you. The letters that are attached are from people from California and I have a little notation on each one as to the number of people who sent that particular letter.

Senator Cohen. Your full written testimony with attachments will be inserted into the hearing record.

[The statement follows:]

Prepared Statement of Loretta Allen, California Indian Education Association

Thank you Mr. Taylor and Senator Cohen, for inviting me to testify at this hearing before the Select Committee on Indian Affairs for the purpose of reviewing the budget submissions of the Department of the Interior as it pertains to programs of the Bureau of Indian Affairs; the Department of Health and Human Services as it pertains to programs of the Indian Health Service; the Department of Education as it pertains to programs of the Office of Education; and the Department of Housing and Urban Development as it pertains to programs for Indian housing. March 23, 1981—10:00 a.m., 1202 Dirksen Senate Office Building.

My name is Loretta E. Allen. I am a member of the Yurok and Karok tribes of northern California—my reservation is Hoopa.

I represent California Indian Education Association which represents one of the largest diversified Indian population in the nation because we have over 200,000 Indian people living in rural, urban, reservation, and rancherias—they represent, probably, all of the Indian tribal groups of the United States.

We CIEA members have a question about some of our Indian programs being considered "mere" social programs; are they not, also, to be considered treaty programs or Federal trust responsibilities? Historically, there was "An Exchange of Indian Lands for Many, Promises, including Education."

Explicit Federal acknowledgment of a responsibility to Indian education (and it seems to other areas of special programing) occurs in Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975. The Act itself begins with the language, "The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people. . . ." The declaration of policy within the Act states that "The Congress hereby recognizes the obligation of the United States to respond to . . ."

I have 307 letters from concerned people writing in support of the position of California Indian Education Association and I am expecting another 300 or more within the next day or two. Our position is summarized by Mr. David Risling in a letter to President Reagan. You will find a copy of his letter in your packet from CIEA.

Thank you again for allowing me to testify and submit the nine letters into the hearing record.

California Indian Education Association, Inc.
POST OFFICE BOX 4095 • • • MODESTO, CALIFORNIA 95352

March 14, 1981

TO WHOM IT MAY CONCERN:

The California Indian Education Association, at its January 1981 meeting appointed Loretta Allen, as its official representative and liaison in matters related to Indian education.

The California Indian Education Association (CIEA) represents one of the largest diversified Indian populations in California. California has over 200,000 Indian people living in rural, urban, reservation, and rancheria settings, attending primarily public schools, although we do have a Bureau of Indian Affairs boarding school, located in southern California,and one private, non-profit all Indian controlled institution of higher education.

Due to the unique and complex nature of the political, social, economic, and cultural situation of Indian people in California, CIEA decided to send Ms. Allen to represent us and voice the concerns of CIEA.

Thank you for your time and effort,

Lois J. Risling
President

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DAVIS, CALIFORNIA 95616

March 16, 1981

President Ronald J. Reagan
The White House
Washington, D.C. 20500

Dear President Reagan,

As a Republican, and as an Indian educator who has for many years been deeply involved in many areas of Indian affairs at local, statewide and national levels, I feel I must address you about matters which are of deep concern to Indian people and others throughout the country.

I will not go into the historical background leading up to the present conditions uniquely affecting Indians, nor into a recitation of the duties of the Federal government in that respect, as I know that such information is readily available to you, if you are not already quite aware of it. With this in mind I will come to the point on the issues which seem critical from an educator's point of view.

Most programs made available to Indian people have been so severely underfunded, they were surely designed for failure, succeeding only in amplifying the contention that Indian people are incapable of managing their own affairs. Further cuts in funding will, naturally, preclude already limited programs from reaching their intended goals.

Specifically, the programs about which I am most concerned at present are:

I. Title IV, Indian Education Act: Unusual in its concept of allowing Indian people the opportunity to make real decisions about their education including providing cultural elements they regard as vital to their education. This program has never been funded at a level appropriate to carrying out the terms of the act, and therefore, to succeed as intended, it should receive increased funding.

II. Johnson-O'Malley: This program in California has successfully provided for the identified special educational needs of Indian children not met by other sources. The visible results of this program have proven it to be vital in educating our children.

III. Tribally Controlled Community College Assistance Act: Indian people are finally able to bring higher education of their own choosing to their people through several colleges which they control and operate. The difficulties these young colleges encounter in securing funds for normal operation and growth are rarely if ever experienced with such severity by other colleges. If we are to continue providing our people with education tailored to their needs we must make sure our Indian-controlled colleges continue to operate and grow; therefore it is urgent that funding be made available to keep this program in operation. (In California, our Indian institute is D-Q University.)

IV. Administration for Native Americans: This program is one of the rare few available to American Indians regardless of their tribal status or their residential community. It is designed to provide the kinds of training needed by Indian people to properly administer and manage their own programs and businesses as well as developing strategies for becoming economically self-sufficient, thus severing the bonds of dependency. Unfortunately, ANA funding has not kept up with the inflation rate in recent years, and since the program is so essential to the ultimate success of so many other Indian programs, it is imperative that ANA's future appropriations be increased, not cut.

V. The Indian Child Welfare Act: Only 2 years old, this act is just beginning to be implemented. It is an essential part of the concept of tribal sovereignty, designed to halt the illegal adoption of Indian children, and to provide specific social services for Indian people that they have had virtually no access to through public agencies, (as shown by recent California studies). Increased self-sufficiency can be realized by Indian people through application of the ICWA. If the Indian Child Welfare Act is to be operated to fulfill its intent, in the absence of similar state laws, its funding must be increased, not cut.

In summary, if the Federal government is serious about its stated objectives for the present and future welfare of Indian people, I cannot see how it can justify cutting any of these programs, most of which assist Indian people in achieving appropriate education to meet their special needs, thus allowing them to become self-sufficient, contributing citizens. In view of the long-term benefits these programs will provide, and of their ultimate impact on the country's taxable income status, I cannot understand the logic behind any course other than maintaining these programs with increased funding where indicated. I hope you agree.

Sincerely,

David Risling

David Risling
Director, Native American Studies

c.c.: Secretaries Watt, Bell and Schweiker
Senators Cranston and Hayakawa
California Congrssional delegation

President Ronald J. Reagan
The White House

Addendum to
David Risling letter,
March 16, 1981

Indian Housing

Your administration has asked Congress to wipe out Indian housing programs. It has been stated that there exists a backlog of Indian houses in the HUD (pipeline) now awaiting completion by other federal agencies. This proposal is a classic example of the right hand of the Government not knowing what the left is doing. For example, OMB has failed to coordinate this section of the budget resulting in the decreased funding of all Federal support systems necessary to the completion of these Indian housing units. Sewage and sanitation lines in the IHS, for example, have been significantly decreased as has the roads construction program of the BIA; further, the CETA budget has been sliced severely, along with Indian Action Teams program of the BIA resulting in removal of a key work force previously used in the completion of Indian housing on reservationss. Therefore, we urge you to at least consider maintaining existing funding levels for Indian houses.

Indian Legal Services

Your administration has also asked Congress to cut off legal aid to the poor, proposing to abolish the Legal Services Corporation, which funds 27 Indian and Alaskan Native legal assistance programs in 22 states. This program is the only avenue to justice for poor Native American tribes and people. Under your proposal, Indian country will lose 185 attorneys and 80 para-legals and tribal court advocates, as well as the assistance of 13 attorneys of the Indian Law Support Center of the Native American Rights Fund. Total funding of legal services to Indian people is $6 million, less than 2% of the Legal Services Corporation budget. The Indian Legal Services Program is a successful and cost-effective manifestation of the United States Indian Policy, providing the poorest people of the nation access to the highest courts of the land. Espcially in this tight budget era when tribal economy can ill afford to be further depressed, the Indian Legal Services Program deserves priority attention and full funding.

Dear Sir:

American Indians should not be treated as other American citizens. Indians have a special relationship with the Federal government which they have paid for dearly over the past several hundred years with blood, land, resouces and their culture. We will not consider cuts in any Indian programs and services and in fact demand increases in these funds. Present programs have basically been underfunded, resulting in programs that are designed to fail.

More specific concerns are: Title IV, the education systems have not adequately offered educational services needed by Indian people. California has only three Title IV, parts B & C programs in the entire state.

Johnson-O'Malley: Johnson-O'Malley programs in California have been serving an important part of the eudcational needs of Indian children and must continue. Without J.O.M., public schools would not adequately address American Indian needs.

Title IV: Part A was designed to provide an atmosphere for urban Indian students to facilitate their cultural heritage, provide for means to facilitate inter-action with the formal school system. It has been under-funded since it's inception and deserves a chance for success.

Tribally Controlled Community College Assistance act: Indian people, for the first time have been bringing relevent higher education to their people in colleges owned, operated, and controlled by Indians in Indian communties. Unfortunately, funds for the operation are inadequate for normal operation and growth, therefore: we strongly urge that more funds be appropriated for the programs. (D.Q. University is our Indian Institution in California.)

The Indian Child Welfare Act: Only two years old, is an essential part of the legal concept of Indian tribal sovereignty, and an irreplacable method of stopping illegal adoption of Indian children. Further, ICWA funds provide social services by and for Indian people - people who have virtually been denied access to such services in public agencies, as recent California studies have shown. ICWA can be a major means of achieving self-sufficiency by Indians. In the absence of similar state laws, ICWA funding cannot be cut and in fact must be increased if ICWA programs are to operate to fulfill the intent of the act itself.

ADMINISTRATION FOR NATIVE AMERICANS provides five kinds of core support for Indian people from reservations to rural areas and into the cities - one of the few programs serving all American Indians regardless of tribal status. Not only does ANA funding cover administrative costs, but it gives Indian administrators and their staff the kind of training needed to run programs efficiently, plan wisely to meet future needs, and develop strategies for economic self-sufficiency to wean us away from any kind of dependence. Since ANA funding has not kept pace with inflation over recent years - but is essential funding - ANA's future appropriation must be increased, not cut.

In summary, we feel we need a continued federal relationship supported by funds and because of our treaty relationship with the USA, should not be considered in the present program cuts and to the contrary are seeking increases in the current funding levels. Before Indian programs are cut, foreign aid to other sovereign nations should be reduced.

Sincerely, Delford [illegible]

1925 G St. Apt #3
Arcata, CA 95521

+ [illegible] other signatures

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California Indian Education Association, Inc.
POST OFFICE BOX 4095 • • • MODESTO, CALIFORNIA 95352

March 15, 1981

President Ronald Reagan
The White House
Washington, D.C. 20500

Dear Mr. President:

American Indians are interested in National Elections. We watch the exhilerating tests of courage of the national parties, the tournaments of ability and endurance of the candidates, feel the excitement, hear the election's conflict of sounds. The roar explodes; the election is over. The winners step upon the political stage, in Washington, where the Nation's business is carried out.

We have watched the elected officials carrying out the Nation's business for more than two hundred years and through the long cycles of many moons we have noticed that the officials sometimes forget about the fiduciary relationship the Federal Government has with Indians.

Our logical existence rests on the fiduciary relationship which includes such Federal programs as: Johnson-O'Malley, Title IV, Tribally Controlled Community College Assistance Act, Indian Child Welfare Act, Health and Human Services, Administration for Native Americans, Indian Centers and so forth.

We have special programs in exchange for land, blood, resources, and our culture. Because of these exchanges we shall not consider budget cuts, rather we ask for increases in funds for Indian programs because they were, in the beginning, underfunded and designed to fail. We feel that until these programs have increased-funding Foreign Aid to other Sovereign Nations should be reduced.

Sincerely,
Sarah H. Hutchison
Sarah H. Hutchison, Secretary

CC: Education Secretary T.H. Bell, Dept. of Education, Building
FOB-6, Washington, DC 20201
Secretary of Health & Human Resources Richard Schweiker, HH
Bldg. 200 Independence Ave. S.W., Washington, DC 20201
Assistant Secretary of Indian Affairs Forrest Gerrard, Dept.
of the Interior, Bureau of Indian Affairs, Main Interior
Bldg. 1951 Constitution Ave., N.W. Washington, DC 20245
U.S. Sen. S.I. Hayakawa, 6217 Dirksen SOB, Washington, DC 20510
U.S. Sen. Alan Cranston, 229 Russell SOB, Washington, DC 20510
Rep. Vic Fazio, 1421 Longworth Bldg., Washington, DC 20515

Honorable

American Indians should not be treated as other American citizens. Indians have a special relationship with the Federal government. They have paid dearly for over the past several hundred years with blood, land, resources and their culture.

We will not consider cuts to any Indian programs and services. In fact we demand increases in these funds. Present programs have basically been underfunded resulting in programs that are designed to fail.

My most specific concerns are those in the area of the Administration of Native American Programs.

Administration for Native Americans provides five kinds of core support for Indian people from reservations to rural areas and into the cities--one of the few programs service all American Indians regardless of tribal status. Not only does ANA funding cover administrative costs, but it gives Indian administrators and their staff the kind of training needed to run programs efficiently, plan wisely to meet future needs, and develop stategies for economic self-sufficiency to wean us away from any kind of dependence. Since ANA funding has not kept pace with inflation over recent years--but is essential funding--ANA's futre appropriation must be increased, not cut.

In summary, we feel we need a continued federal relationship, supported by funds and, because of our treaty relationship with the USA, those funds should not be considered in the present program cuts. To the contrary, we are seeking increases in the current funding levels. Foreign aid to other sovereign nations should be reduced before Indian programs are cut.

Carlos Gonzalez

DR. CARLOS GONZALEZ, Counselor
FRESNO CITY COLLEGE
1101 E. UNIVERSITY AVE.
FRESNO, CA 93741

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Honorable

American Indians should not be treated as other American citizens. Indians have a special relationship with the Federal government. They have paid dearly for over the past several hundred years with blood, land, resources and their culture.

We will not consider cuts to any Indian programs and services. In fact we demand increases in these funds. Present programs have basically been underfunded resulting in programs that are designed to fail.

My most specific concerns are those in the area of the Indian Child Welfare Act.

This Act is only two years old. But it reinforces the concept of tribal sovereignty and is proving to be a valuable tool to stop the removal of Indian children from the Indian community. Further, ICWA funds provide social services by and for Indian people--people who have been virtually denied such services in public agencies, as recent California studies have shown.

ICWA can be a major means of achieving Indian self sufficiency. In the absence of similar state laws, the ICWA funding cannot be cut and must be increased if the ICWA programs are to operate to the full intent of the law.

In summary, we feel we need a continued federal relationship, supported by funds and, because of our treaty relationship with the USA, these funds should not be considered in the present program cuts. To the contrary, we are seeking increases in the current funding levels. Foreign aid to other sovereign nations should be reduced before Indian programs are cut.

Sincerely,

Christie Murray

3-81

Honorable

American Indians should not be treated as other American citizens. Indians have a special relationship with the Federal government. They have paid dearly for over the past several hundred years with blood, land, resources and their culture.

We will not consider cuts to any Indian programs and services. In fact we demand increases in these funds. Present programs have basically been underfunded resulting in programs that are designed to fail.

My most specific concerns are those in the area of the Tribally Controlled Community College Assistance Act.

Under this act for the first time Indians have been bringing relevant higher education to their people. The colleges are owned, operated and controlled by Indians in Indian communities.

Unfortunately funds for the operations are inadequate for normal operation and growth. Therefore, we strongly urge that said funds be appropriated for the programs. In California D-Q University is our Indian college.

In summary, we feel we need a continued federal relationship, supported by funds and, because of our treaty relationship with the USA, these funds should not be considered in the present program cuts. To the contrary we are seeking increases in the current funding levels. Foreign aid to other sovereign nations should be reduced before Indian programs are cut.

Sincerely,

Carlos Gonzalez

DR. CARLOS GONZALEZ, Counselor
FRESNO CITY COLLEGE
1101 E. UNIVERSITY AVE.
FRESNO, CA 93741

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Honorable

American Indians should not be treated as other American citizens. Indians have a special relationship with the Federal government. They have paid dearly for over the past serveral hundred years with blood,- land, resources and their culture.

We will not consider cuts to any Indian programs and services. In fact we demand increases in these funds. Present programs have basically been underfunded resulting in programs that are designed to fail.

My most specific concerns are those in the area of Indian education, such as the Title IV Program of the Indian Education Act; the Johnson O'Malley Supplemental Indian Education Program which is designed to enhance educational services and experiences Indian children may not otherwise receive through the public school system.

The Title IV, Part A program was designed to provide an atmosphere for Indian student to facilitate their cultural heritage, provide a means to interact with the school system. It has been funded since its enception and deserves a chance for success. Part B of this program exists in only three areas of the state.

In summary, we feel we need a continued federal relationship, supported by funds and, because of our treaty relationship with the USA, these funds should not be considered in the present program cuts. To the contrary, we are seeking increases in the current funding levels. Foreign aid to other sovereign nations should be reduced before Indian programs are cut.

Sincerely,

Carlos Gonzalez

DR. CARLOS GONZALEZ, Counselor
FRESNO CITY COLLEGE
1101 E. UNIVERSITY AVE.
FRESNO, CA 93741

also [illegible]

BEST COPY AVAILABLE

March 16, 1981

Honorable

American Indians should not be treated as other people. Indians have a special relationship with the federal government for which they have paid dearly over the past several hundred years with their blood, lands, resources, and their culture. We will not consider cuts in any Indian programs and services and, in fact, are demanding eases in these funds. Present programs have basically been underfunded, resulting in programs that are designed to fail.

More specific concerns are:

Title IV, the educational system, has not adequately offered educational services needed by Indian people. California has only three Title IV, Part B, programs in the entire state.

Title IV, Part A, was designed to provide an atmosphere for urban Indian students, to facilitate their cultural heritage, provide for means to also enable interaction with the formal school system. It has been underfunded since its inception and deserves a chance to succeed.

Johnson O'Malley programs in California have been serving an important part of the educational needs of Indian children and must continue. Without JOM, public schools could not adequately address American Indian needs.

In summary, we feel we need a continued federal relationship, supported by funds and, because of our treaty relationship with the USA, should not be considered in the present program cut. To the contrary, we are seeking INCREASES in the current funding level. Before Indian programs are cut, foreign aid to other sovereign nations should be reduced.

Sincerely,

Lorrie Planas
2786 W San Gabriel
Fresno. Ca 93705

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March 17, 1981

Honorable

We have become concerned about the proposed budget cuts in the federally sponsored Indian Programs, such as, Title IV-Parts A,B, and C, Johnson-O'Malley, and the Indian Child Welfare Act. These programs provide essential services to Indian people who ARE NOT being served otherwise. We advocate that programs serving Indian people be funded without any budget cuts, and that they be funded at a level adequate to provide the services needed by Indian people.

36 p[illegible]

Sincerely,

Name	Address
James B. Adamson	1808 CALAVARAS DR
Jean [illegible] Adamson	SANTA ROSA
Thomas W Grubbs	2228 Kehoe Ave. San Mateo, CA 94403
Vivian R Hailstone	P.O. Box 3584, Redding Ca 96049
Judith Harley	2203 Jonquil Way, Redding, Ca

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STATEMENT OF RONALD ANDRADE, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS; ACCOMPANIED BY SUZIE ERLICH, ADMINISTRATOR, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. ANDRADE. Thank you, Mr. Chairman, I want to apologize for coming in late. We were still trying to put some data together for you.

As you note, we have prepared a fairly large statement and I will not try to read it for you. It is much too large.

Senator COHEN. Without objection, your full statement will be included in the record at the end of your testimony.

Mr. ANDRADE. Yes, if you will, please.

Our primary concern is that we would like to really draw your attention to certain parts of our testimony because it does provide some data that you just requested a few minutes ago. In particular, the tribal profiles. You were asking a question a minute ago about how do you determine the tribes and especially in the line of CETA. We chose three tribes to review very quickly since we did not have a lot of time, given these cuts, the way they are coming down, and the massive extent of the cuts. We did call three tribes and specifically asked them for data on the impact on the tribes of the cuts, especially in the CETA areas.

If you review Seneca and Pine Ridge you will notice that both of them used CETA people, CETA participants, extensively in their programs. Under the Johnson-O'Malley they used CETA employees. Under the Indian action teams they have CETA employees included. Under the housing improvement program we have CETA employees. Our concern is that, as you review the whole area of the infrastructures of these tribes, the reduction in the CETA will significantly undermine the infrastructure of the tribes that have been developed in the last years, especially in the last 10 years.

The cuts have to be viewed in a more wide-ranging fashion than only an attempt by the administration to cut and pare down the bureaucracy in a given area.

The tribes, throughout the years, have become very dependent. Many of their programs are dependent upon the Federal dollars coming in for the main reason that we do not have a taxation base. We do not have the economic base as the cities, counties, or States would have. So, therefore, we have been dependent upon receiving funds to build infrastructures.

If you reach back into the history of the U.S. Government's relationship with the tribes, it was not, until 1968 at the time of the OEO Indian Desk, that tribes began, for the first time, to manage money directly, under direct grants, to support their tribal structures. So we are talking about a process since only 1968 where the tribes have begun to develop their infrastructures utilizing, primarily, Federal resource dollars to begin to do that.

We are now faced with the infrastructures being cut out, at the same time when the tribe is desperately trying to develop an economy to support themselves. 12 or 13 years is not a long amount of time to try to develop an entire tribal governmental structure.

I want to make it clear—I have said it in press statements—that we are not opposed to the cuts. Cuts must come. The country must try to control inflation and the cuts must be made in bureaucracy throughout the Federal Government. Our point is that we do not feel that enough attention, enough review, has been made of the tribal programs to really determine the effect upon the tribal structure—the infrastructure—of these tribes.

I could speak to one particular instance. The administration has already announced, in following President Carter's decision, that they would elimiate the HUD 701 planning program. That provides comprehensive planning moneys to the tribes. At the same time, this administration has determined that they shall eliminate EDA. EDA provides in excess of $5 million to the tribes for planning managers to the tribes, so that they can hire planners who can comprehensively plan in coordination with the HUD 701 planning grants. This administration has already announced that they shall terminate the Inter-Governmental Personnel Act program which provides approximately $1 million that the tribes have utilized to hire planners.

At the same time the Bureau has announced that they will close down the Tribal Management Corps which also provided planners. In the meantime, the tribes have utilized CETA employees, as you will see at least through the tribal profiles, to build an infrastructure and, maybe, hire planners. None of those programs are that large but they certainly impact the tribes—$5 million in EDA, the HUD 701 program is only $1 million total budget authority, IPA is a total of $500,000 budget authority, as I understand. Those are not significant cuts. They are not going to balance inflation by those kind of cuts but they will seriously impair the tribal infrastructures unless the cuts are reviewed in a different fashion, especially in light of the tribes. Then, we will see many of the tribal structures very seriously damaged from these cuts. We are not saying that the tribes should not sustain some cuts. We are not saying that there are no major bureaucratic slush funds. But a much more detailed review should be made of these because these tribes have begun to develop their infrastructures and, at the same time, if you withdraw those infrastructures and draw all planning moneys away from them, it does not seem reasonable to us where the administration expects these tribes to move.

Plus, in the Bureau budget request, they have also decided to eliminate the business enterprise development program and some of the new initiatives in the forestry programs, which were also programs for economic development, allowing the tribes to build economic self-sufficiency. Now, how do you cut those, plus cut the tribal infrastructures and expect the tribes to progress?

We do not see how Mr. Stockman or the administration came to that understanding. That is where our prime concerns lie, although there are other areas in which we are very concerned. How did the administration develop their housing statements? We are very confused as to where Mr. Stockman came up with $179,000 per housing unit. I mean it was a question posed to us that if that was taking the whole stature of the house, from the entire amount of the money also included in the interest rates and amelioration of the house over a long period of time. But if you take any Federal official and do that, is any

Federal official worth $2 million because that is what you pay them over a 30-year period, especially at the wage level that some of these people are, at the higher SES levels—$50,000 per year. Projecting that over 30 years, that comes out to about $2 million including interest rates.

Senator COHEN. I tried to explore how they developed that to compare with other types of housing. As I recall, it is $179,000 compared to $165,000. There is a discrepancy, part of which they did indicate was attributed to the higher costs of building units in Alaska. They indicated some tribal mismanagement or confusion or overlapping or some particular problem that the tribes may have had with the housing units themselves. It is basically because they were essentially in remote areas. So, there is some logical factor that would account for the discrepancy.

Mr. ANDRADE. You know we get caught in a real Catch 22 position. They put us in isolated areas and now we are being told we are wrong because we are in isolated areas. They could not find us before, it took them until 1968 to find us Indian housing and now they say we found you too much and you are too expensive and now we are going to cut you out. You see, the logic seems to get lost on us somewhere, if there is logic.

With me, and I am sorry but I should have introduced her, is Suzie Erlich who is from Alaska and works with NCAI. I do not know if she might want to comment on Alaska.

Ms. ERLICH. Well, not necessarily so much on the cost of housing but in the fashion that housing is built in Alaska. In my particular village of 178 people, both HUD and the State brought in housing and all of the houses included bath tubs and units for flush toilets and a minimal amount of things that keep the house warm. Anyhow, we have to recognize that in many parts of Alaska it gets to be 60 to 70 degrees below and the permafrost is year round. It is impossible to have flush toilets. It is impossible to have bath tubs and it is really necessary to have insulation. It is very critical. We understand now that within some of the village homes the fault has been owned by the Federal Government and they are coming in and repairing the homes. And, yes, that might be where some of the costs are, but you must keep in mind that it is not the blame or the fault of the individual in the village. It is not the fault of the nonprofit organization or the IRA Council. The blame necessarily comes from Indian Health Services, HUD, and the Bureau of Indian Affairs—the Federal Government.

Mr. ANDRADE. Mr. Chairman, again if I can refer back to the statement. On the addendum we speak to some of the losses and reductions in various program areas. Tribes will be seriously impacted by the loss of some of the food programs. You can actually speak across the whole range, but when you take the percentage that we are discussing and the community food and nutrition program cuts that are planned now for the Community Serivce Administration—the total budget authority for the community food and nutrition program for CSA is $28 million. It was not until Congress ordered CSA to provide the community food and nutrition program to the tribes—that was barely 4 or 5 years ago now—that CSA agreed to a 10-percent amount being given to the tribes. So, for the last 4 years, the tribes' allocation has run from $2 million in the first years to $3.1 million this year.

That is the entire amount of the cut that they are going to take from the tribes. We question that. How can you, in 5 years, have created such a tremendous bureaucracy, and $3.1 million has such a tremendous impact on the inflation rate that the $3.1 million going to the tribes barely even touches the majority of the tribes.

The average grants are about $30,000 into the tribes and they are made—or expected to—to develop food programing for selfsufficiency, to develop gardens, solar greenhouses, different food type activities for the elderly and the poor on the reservation. We question how that $3.1 million reduction is going to slow down inflation and whether it will adversely affect the tribes, since then they will not have the funds available to develop food programs for the tribe, for their own people, and to develop gardens or to revitalize the land or develop solar greenhouses. They will not have the funds available to do it. It is hard for us to imagine how they, on one hand, are asking the tribes to seek self-sufficiency and on the other side, taking away the tools which we are supposed to utilize to do exactly that. The cuts are very small when you compare them to the rest of the budget. The rest of the budget and many of these cuts that we are having are minimal. The Administration for Native Americans has been instructed that they will probably be reduced by $5.8 million out of a total HHS budget in excess of $20 billion. It is the third largest budget in the world I understand. Where is $5.8 million going to balance that. That program, since 1974, has had an annual budget averaging $33.8 million. It has not had an increase for over 7 years and yet it is now having a decrease because of inflation.

Now you are going to help us balance inflation by taking a $5.8 million reduction and the tribes utilize that money for administrative structures. That is what that money is provided for in the regulations. They place that on top of all the other money going out for planning. We do not know at this point where the tribes will receive their money to sustain their administrative structures that they have been building, very, very carefully on a piecemeal basis across this whole government. We have lost the logic.

I do want to bring up three points about which we are very concerned on the Bureau's consolidated grant programs.

There are three major questions which we will be providing as we learn more from the Bureau.

The first is that there is no formula in that consolidated grant application. We do not know what formula or method they will use to allocate funds. Apparently, they do not know what formula they will use to allocate those funds. Whether they will use tribal enrollment, tribal population on the reservation, some other magic formula that they have developed, or some magic formula developed by OMB, there is no indication. At this point, we feel that is very critical. The formula allocation process is the most critical part of the whole program.

Second, the statement was made a little while ago that in those areas where the tribes—at the order of the Federal Government in the 1960's and 1950's—began to have their people moved into the cities and were taken under relocation programs and have now developed some longevity in the cities, in the urban areas, in the off-reservation areas—that is what we consider them to be, simply off-reservation people—that this program has no structure to comply with the *Ruiz* v. *Morton* case, and the services were being provided to on or near reservation people, especially in California. *Ruiz* v. *Morton* is particular to that State.

The Johnson O'Malley program right now does contract with programs within the urban areas. They comply with the Johnson O'Malley rules of quarter blood. They comply with the requirements of showing tribal certifications, yet this program will close those because it does not provide for the off-reservation people whatsoever in this consolidated grant program. So, we have questioned so far to the Bureau, what shall be done with those people. First you have put them in there and now this program would seek, apparently, to just cut them loose.

The third concern is that there is no protection for the presently operated programs. We foresee that the majority of the money being given in the consolidated grant programs will be for the tribes to redevelop their administrative structures. Those Bureau employees that are relieved at the field area because of the cutbacks, the 440 slots determined to be relieved, will then have to be picked up by the tribes and their money. It is a paper shuffle but the tribes then would have less money available for services because they will have had to redevelop their administrative structures by hiring all these unemployed Bureau people that will be terminated.

We are not really clear and I would suspect in as was mentioned by Mr. Chino—that the bureaucracy seems to protect itself and they seem to be the first ones that always get protected. I made a note that there must be some kind of biblical reference to bureaucracy because they are the first ones—they are always there, they never leave.

Our concern is that we will be more than willing to see cuts done in the administrative structures. The American Indian Policy Review Commission recommended years ago, in its report, a phase down for bureaucracies for cost savings and turning over more authorities to the tribes. We are supportive of that. We supported the American Indian Policy Review Commission's final reports and we still think that there must be and can be a reduction in the bureaucracy. We are very concerned that the committee assist us and approach this administration to begin to review those cuts in a more comprehensive fashion. We will not balance the budget by a $1 million reduction in the HUD 701 planning grants that go to tribes.

If this country can have its whole economy turned around by a $5.8 million reduction in ANA and some of these other minor reductions in all these other programs then this country is worse off than we even believe. We cannot see this and we request the committee's assistance. We request the whole Congress assistance to review these cuts to make them a much more equitable cut and we are more than supportive of equitable cuts as long as we do not see that the cuts will seriously endanger the infrastructure of the tribes as they have been developing over the last years.

Thank you, sir.

Senator COHEN. Thank you very much, Mr. Andrade.

[The prepared statement follows. Testimony resumes on p. 81.]

PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, SUBMITTED BY RONALD ANDRADE, EXECUTIVE DIRECTOR

The National Congress of American Indians (NCAI) respectfully submits the following testimony.

The NCAI is the largest national Indian organization with a membership of approximately two hundred tribes representing around 400,000 individuals. As it enters its 38th year of existence, its primary focus remains to protect the interests of Indian Nations as affected by the Federal Government.

The membership has selected the following nine issues as areas of primary concern and has mandated the office to address a major portion of its attention to developing and broadening those particular areas: Alcoholism, Economic Development, Education, Health, Housing, Human Services, Indian Preference, National Resources and Trust Responsibility/Litigation.

In light of the above, the organization is pleased to participate in these oversight hearings which involves the BIA, the IHS, the Office of Indian Education and HUD.

As a preface, we must make note that through the Federal Trust obligations, Tribes are unique from individual States in that they (the Tribes) receive all operational and developmental monies from the Federal Government. Indian Nations have not enjoyed the independence provided by taxation or other local revenues and are therefore encumbered by a very delicate infrastructure totally dependent upon the United States Government.

Therefore, although this portion will be specific to the interests of this Committee, we are presenting some specific tribal data as attachments which includes other agencies who intend to diminish or abolish services to Indian Country.

It is important for all concerned to keep in mind the cumulative impact of all the budgetary cuts as they affect the tribes.

BUREAU OF INDIAN AFFAIRS

Tribes generally are supportive of necessary budget cuts within the Bureau. However, the overall consensus is that the cuts should be incurred by the Bureau's administrative levels rather than at the direct services level. Tribes have indicated a concern over the Bureau's Direct Services budget, desiring not to see any major cuts because of the numerous cuts they expect to receive in other areas. We urge the Committee to seriously consider the Tribal Governments' needs as indicated above.

An urgent concern in relation to the proposed cuts is the system by which the remainder of the funds will be expended. We understand that the Bureau is making provisions for a consolidated grant form of delivery. This consolidated delivery will not be in working order until Fiscal Year 1983. This places a question on the method of delivery for their programs from now until them. If the Bureau cannot adequately insure that their "lag time" will not place undue and harmful damage on the Tribes, the National Congress of American Indians strongly urges the Congress to hold cuts within the Bureau at a minimum until a system has been devised that will insure cost-effectiveness, fairness and equity.

The status of federally assisted housing for Indian people living on reservations is as follows:

HOUSING AND URBAN DEVELOPMENT

This agency provides the bulk of housing on reservations through its Indian Housing Program. For 1981, the Administration is proposing to rescind $0.2 billion of the $967,680,000 in budget authority for the program. This means a reduction in the number of units that can be reserved by Indian Housing Authorities this year. In fact, HUD has already notified its field offices that the 1981 unit level of 6,000 units is reduced to 5,000 and only half this among (2,500 units) can be reserved at this point. This action is possibly in anticipation of Congressional approval of the recission request.

Under the January (Carter) budget, $703 million in budget authority was proposed for the program for 1982. The Administration is proposing to terminate the program instead. Its rationale for doing so is: excessive costs, isolated locations of project sites, lack of coordination with HHS–IHS on water and sewer construction, and the number of units already in the pipeline. The Administration has estimated that there are 22,000 units in the pipeline and that these represent a 5½-year supply at the 4,000-unit program level proposed in the January budget. According to IHS estimates, there are only 14–15,000 homes in the pipeline; maybe a 3-year supply.

BUREAU OF INDIAN AFFAIRS

The Bureau's Housing Improvement Program (HIP) is 1 of 11 BIA programs slated to be lumped together into a Consolidated Tribal Governmental Program (CTGP) discussed elsewhere in this paper. The HIP program's proposed funding level for 1982 is $23.8 million, however, when it is included with the other programs, the total amount of the eleven programs will be cut by 25 percent. Road Construction funds will be reduced by $3 million although, according to BIA, this will still be an increase of $1.9 million over the 1981 level.

INDIAN HEALTH SERVICE

IHA's Sanitation Facilities Construction Program is the primary source of funds for the installation of water and sewer systems to support HUD Indian housing projects. The IHS is proposing to eliminate this program in 1982 because of HUD's decision to do likewise with its Indian Housing Program. Furthermore, IHS is withdrawing a request for a $23 million supplemental for 1981. IHS is currently funded at $50,440,000. The total decrease that will be made in 1982 is $73 million (including the $23 million supplemental). Although IHS projected serving 8,080 Indian homes in 1981, it found out that there are 8,250 homes for 1981 and that it will only be able to serve 6,200 this year, hence the request for supplemental monies. These homes are projects funded under previous years (1978–1980) and approximately 4,000 units out of the 8,250 are already under construction.

There are many areas to the rationale given by the Administration for dumping the Indian Housing Program that are not equitable or clear to us. For example, if federally assisted housing is considered by the Administration to be so expensive, then why wasn't the Public Housing Program eliminated also? What was the basis for the Administration's estimate of over $175,000 in budget authority per unit? How did the Administration arrive at the figure of 22,000 units in the pipeline? Furthermore, the Administration has not outlined how the estimated 5½-year supply will be completed nor has it taken into account the effect that inflation and the lack of funding for water and sewer systems will have on the remaining amount of funds. Also, what will the status of the Inter-Departmental Agreement be if the proposed elimination of HUD's and IHS's programs is carried out? Will the BIA, IHS and HUD continue to carry out their responsibilities until the last house is built?

Another area of loss to Indian people is of the progress made within HUD itself. With separate offices established nationally to manage the Indian Housing Program, the Department gave focus to a program which desperately needed attention for improving the delivery system as well as overall management of the program. The number of staff allocated to the Indian Programs Offices in the field and HUD Central Office is over 300. Approximately two-thirds of this amount will be adversely affected. The program stands to lose, nationally, over 200 positions. It is not known by what process or timeframe these cutbacks in staff will be made.

The chances for a complete discontinuation of housing construction activity on reservations are very high in light of the proposed termination of the Indian Housing Program and the Sanitation Facilities Construction Program, and the inclusion of HIP in the BIA's CTGP. The loss of HUD's and IHS's programs means that the burden for funding housing construction and water and sewer systems in and beyond 1982 will be on BIA's shoulders. Given that under the CTGP, as proposed, tribes will have the responsibility for determining funding priorities and levels for the 11 programs, as well as responsibility for managing them, the question is: How will housing fare as a priority when forced to compete with the other 10 programs? At this point the exact process or formula that BIA will use for determining how the $121 million will be divided among the tribes is unknown. It is certain, however, that future housing funds will be extremely limited to non-existent unless the Indian Housing and Sanitation Facilities Construction Programs are continued.

TRIBAL PROFILES THAT ILLUSTRATE THE POTENTIAL CUMULATIVE IMPACT OF THE PROPOSED BUDGET CUTS ON AMERICAN INDIAN RESERVATIONS

NCAI is concerned with the overall impact of the budget cuts on American Indian reservations. The 420 tribes in the United States cannot be viewed monolithically, for they represent a diversity of economies and capabilities for absorbing the cuts. To gain a better understanding of the cumulative impact that could result from the cuts, NCAI has data on three tribes: Pine Ridge Reservation in South Dakota, Seneca Nation of New York, and Warm Springs Reservation of Oregon. Though our intention was to gather information on the entire spectrum of tribes, the smaller and less developed tribes who are most dependent on federal funds for survival were unable to provide data on such short notice. One can presume that the impact on these small tribes will be even greater than on middle level tribes, like Pine Ridge and Seneca. Warm Springs, of course, is at the end of the spectrum and is the exception, rather than the rule because it has had a strong economy for many years.

Generally speaking, federal funding is the core of many reservation economies. Tribes have used federal money creatively in carrying out the development objectives of the reservations, as well as the day to day tribal administration and delivery of services. As a result, drastic cuts in programs like CETA, HUD, EDA, and USDA Food Stamps will have severe multiplier effects on these fragile economies. The cuts will not be cost-effective, for they will destroy carefully orchestrated development efforts aimed at economic self-sufficiency for many tribes. The disproportionate impact that federal cuts would have on these dependent reservations does not constitute fairness and equity. The attached profiles are presented as illustrations of the magnitude of federal funding on reservations. Particularly in the cases of Pine Ridge and Seneca, when one compares the list of proposed cutbacks with the amount of money these tribes receive, it is evident that the impact will be substantial and damaging.

As a word of caution to the committee, these profiles were gathered in a very short period of time and by telephone interviews. Should the Committee have any questions regarding the data presented, they are urged to contact the individuals listed on the first page of each profile. Furthermore, the data is not comparable. Because of the number and diversity of programs on reservations, tribes were asked to describe the major areas of funding, number employed, use of CETA employees, objective of program, and projected impact of funding reduction. Thus, tribes focused their information in areas of importance to them in the development and well-being of their reservations. The profiles, then are presented as illustrations of the magnitude of federal funding and the role it plays in the reservation economies. In order to insure cost-effectiveness, fairness and equity in paring the budget, NCAI urges the Committee to consider the overall impact on reservations and to exercise caution in dealing with the most fragile reservation economies.

Tribal profile—Seneca Nation (Allegany and Cattaraugus Reservation, N.Y.)

Total population	5,318
Labor force	3,400
Unemployed	1,020
Unemployment rate (projected after April 3, with CETA cuts 45 percent) percent	30
Food Stamp Recipients (36 percent of total population)	1,[illegible]15
Total housing	856
Sub-standard percent	14
Below sub-standard percent	16

Statistics provided by Seneca Nation.

SENECA NATION

[Fiscal years]

	Grant amount	
	1980	1981
BUREAU OF INDIAN AFFAIRS GRANTS		
93-638 Administration/construction used for building construction and tribal administration—CETA salaries used for construction	$191,900	$191,900
Direct employees	7	20
Service population	5,897	5,897
Johnson O'Malley (to meet unique educational needs of Indian children)	$292,910	$292,910
CETA employees	4	4
Direct employees	11	11
Service population (students)	344	344
Impact of proposed cut: There is uncertainty because of BIA block grants. The pot would be quite small and would therefore reduce overall services. JOM is a high priority for the Seneca.		
Indian action teams (to develop skills for tribal members in trades; this force is used to maintain, build and repair reservation infrastructure)	$310,000	$310,000
CETA employees integrated in program	15	15
Direct employees	20	20
Service population: Reservationwide.		
Housing improvement program (HIP) (money is used to purchase materials required for weatherization and repair)	$93,000	$93,000
CETA employees used for construction	12	12
150 houses rehabilitated.		
Youth Conservation Corps (YCC) (provides summer employment for college youth to make improvements on reservation property)	$15,000	[1] $15,000
Direct employees	24	−24
HEALTH AND HUMAN SERVICES GRANTS		
IHS computer project (used to purchase computer for maintenance of information on patient care activities for health department and to establish financial system data base for reservation)	$225,000	$64,500
Direct employees	2	2
Service population: Reservationwide.		
Impact: If funds are cut, the Senecas will pick up on indirect costs. There is a question of whether the services of a programer can be maintained.		
IHS word processor (used to purchase word processor for link to IHS)	$34,800	$34,800
Direct employees	2	2
CETA funds used to train employees.		
Service population: Reservationwide.		
Impact: Loss of these funds would force tribe to pick up on indirect costs.		
IHS master health contract (provides for the operation of 2 outpatient clinics and direct services in health alcoholism; assists people applying for food stamps)	$1,572,000	$1,655,000
Direct employees	54	54
Service population: Reservation wide.		
Impact: New hiring has already been frozen, travel has been restricted, training funds eliminated and contract health care has been reduced by 50 percent. The Senecas will be able to provide only urgent/emergency services. All other care will be reduced or eliminated.		
Head start program (2 centers operate to provide comprehensive education program for preschool children; USDA funds food supplements, CETA and other agencies provide transportation)	$60,500	$60,500
CETA employees	5	5, −3
Direct employees	6	6
Service population: 40 children.		
Impact: Increases student/teacher ratio, because of loss of CETA employees. The long-term impact will be in more costly child care and health care, less adequate transportation facilities and personnel, and poor child performance in schools.		
Adult education (GED preparation, educational opportunities counseling, GED testing)	$104,000	$120,000
CETA employees	4	4, −4
Direct employees	5FT/4PT	5FT/4PT
Service population: 120.		
Impact: Reduced funding would imply that fewer wageearners could obtain high school diploma.		
Winterization (see HIP, p. 2)	$50,000	$50,000
Environment health grant (construction of sewerage treatment plant, tied to HUD grant)	$220,000	None
Administration for Native Americans (research and development grant: used to develop management and specialized studies in economic growth and enterprise development)	$110,000	$110,000
Direct employees	6	6
Impact: Reduced funding would hamper efforts toward tribal economic growth and management development, particularly if other economic development programs are reduced as well.		

See footnote at end of table.

SENECA NATION—Continued

[Fiscal years]

	Grant amount	
	1980	1981
DEPARTMENT OF COMMERCE GRANTS		
Economic Development Administration planning grant (provides money for planning staff for economic development for tribe)	$50,000	[1]50,000
Direct employees	3	3
Impact: Reduction/elimination of these funds can be absorbed only if HUD-CDBG grant is maintained. Otherwise would imply zero money for planning staff for Seneca Nation.		
HUD CDBG (money used to develop home building sites, utilities, plumbing and sewerage for families now living in substandard homes)	$227,000	$227,000
Direct employees	7	7
Note: This program is tied into HUD housing authorities.		
U.S. DEPARTMENT OF AGRICULTURE GRANTS		
WIC—Women, infants and children (used for supplemental food and nutrition education)	$140,000	$150,000
Direct employees	3	3
Service population: 400.		
Impact: Reduced funding would require the reduction of population served.		
USDA summer food (provides 2 meals/day for school children during summer)	$12,000	No grant
Service population: 120 children.		
Food stamps: Guess is that most families on reservations are on food stamps.		
DEPARTMENT OF LABOR GRANTS		
CETA program	$2,300,000	$2,600,000
Title II employees	60	—60
Title VI employees	27	—27
Other CETA	53	53
Impact: As is evident from the preceding data, CETA plays an important role in the provision of services, maintenance of infrastructure, and youth programs on the reservations. As a result of CETA cuts, certain departments and programs will be completely eliminated. For example, transportation for WIC/Education/Health services is provided by CETA employees. There will be no transportation provided for these programs if CETA is cut out. There will be no recreation programs for the youth. The reservation security force will be cut substantially. The education program is heavily dependent on CETA, there will be no money for administrative staff.		

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[1] Frozen.

PINE RIDGE RESERVATION (OGLALA SIOUX, PINE RIDGE, S. DAK.—TRIBAL PROFILE

[These statistics were supplied by the Oglala Sioux Tribe.]

Total population (on or near)	21,000
Unemployment rate (percent)	56
Total number of Federal programs	41
Total employed by Federal program (exclusive of CETA)	337
CETA employees on reservation	567

OGLALA SIOUX, PINE RIDGE RESERVATION

[Fiscal years]

	Grant amount	
	1980	1981
BUREAU OF INDIAN AFFAIRS GRANTS/CONTRACTS		
BIA 638 grant (establishment of appellate court)	$65,000	$34,055
Direct employees	4	4
BIA Indian services (to set up constitution and by-laws for community government)	$182,000	$180,000
Direct employees	7	7
Service population: 200.		
Home improvement program (HIP) (improved 100 units each year)	$64,000	$84,500
Direct employees	9	9
DOL staff person	1	1
Johnson O'Malley	($?)	$151,000
Direct employees	(?)	(?)
Service population: 3,307 children.		

OGLALA SIOUX, PINE RIDGE RESERVATION—Continued

[Fiscal years]

	Grant amount	
	1980	1981
INDIAN HEALTH SERVICE GRANTS/CONTRACTS		
Community health representatives		$633,484
Direct employees		10
Health planning office		$132,815
Direct employees		7
Special medical services for children		$35,795
Water flouridation program		$15,563
Sanitation facilities (this program is funded by IHS, HUD and tribe)		$114,000
Direct employees		12
HEALTH AND HUMAN SERVICES GRANTS/CONTRACTS		
ANA (middle level tribal government)	$536,000	$427,943
Direct employees	27	18
Older American assistance		$70,000
Direct employees		3
Service population		900
Head Start	$842,493	$842,493
Direct employees	12	12
Service population		250
DEPARTMENT OF EDUCATION GRANT		
Tribal Education Office (coordinates school boards)		$54,000
Direct employees		2
DEPARTMENT OF AGRICULTURE GRANT		
Commodity food program (food supplement program administered through State)	$138,172	$138,172
Direct employees	5	5
Service population	12,600	12,600
Food stamps (2,000 members receive food stamps).		
DEPARTMENT OF ENERGY GRANT		
Weatherization (rehabilitated 90 homes; 500 homes still require weatherization		$141,000
Direct employees		36
DEPARTMENT OF COMMERCE GRANT		
EDA planning grant		$50,000
Fiscal year 1981 rescission		−$37,500
Remainder for fiscal year 1981		$12,500
Direct employees (lose 5 positions because of rescission)		5
Impact: Planning is essential part of tribal activity. Can survive without EDA, as long as planning funds are available from BIA or ANA.		
DEPARTMENT OF LABOR GRANT		
CETA program		$2,900,000
Employees		567
Impact: Proposed reduction/elimination of CETA funding will have severe repercussions for other tribal programs such as public health, law enforcement, and staffing for 5 factories.		

WARM SPRINGS RESERVATION (WARM SPRINGS, NORTHERN PAIUTE AND WASCO CONFEDERATED TRIBES), WARM SPRINGS, OREG.—TRIBAL PROFILE

[From the U.S. Department of Commerce, Federal and State Indian Reservations and Indian Trust Areas, 1974, Government Printing Office]

Population	1,603
Labor force	510
Unemployed	198
Unemployment (percent)	39

WARM SPRINGS RESERVATION

[Fiscal year]

	Grant amount	
	1980	1981
DEPARTMENT OF LABOR GRANT		
CETA program (prime sponsor)	$1,200,000	$1,200,000
Rescission		−$62,000
Direct employees		250
Impact: The proposed reduction will limit the number of people served, will reduce training program from 90 to 30 days. The long-term effect will hurt reservation employment because CETA training is geared toward full-time employment positions.		
DEPARTMENT OF COMMERCE—EDA GRANT		
Planning grant (to create business enterprises and generate revenues for the reservation)		$43,000
Impact: Warm Springs is unique in that it is able to sustain 90 percent of planning costs. On other reservations, however, EDA planners are the only line with outside world to obtain grants and contracts and to generate business and revenues for reservations.		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
Housing:		
Current housing need is 150 units. The BIA offers a small amount of money in this area but the regulations make it impossible for people to qualify.		
BIA road construction is key program. HUD will not give money without roads.		
With BIA and IHS cuts in sanitation facilities, poor tribes will be forced to go without housing.		
Recommends shifting all funds for housing to BIA, improve regulations.		
DEPARTMENT OF AGRICULTURE GRANT		
Food Supplement for Head Start (200 children served)		$40,000
Impact: Warm Springs is economically better suited to carry cost of these programs. Points out that on other reservations this is not the case.		
DEPARTMENT OF HEALTH AND HUMAN SERVICES		
ANA (research grant)		$15,000
Impact: Marginal.		
CSA (used for energy assistance, food, and weatherization)		$20,000

DEPARTMENT OF INTERIOR

Bureau of Indian Affairs

Problem with consolidated block grants and reduced level of funding. Public Law 93-638 places tribes with procurement contracts and all the rules and regulations that are associated with procurement. Relationship with BIA should be government-to-government.

ADDENDA: INDIAN BUDGET CUTS

The Indian Budget Data represents a preliminary estimate of cuts in Indian Programs. It is provided to the Committee as an overview of the Departmental cuts and can be used in conjunction with the tribal profiles to assess potential impact reservations.

ATTACHMENT 1(a)

SUMMARY: INDIAN BUDGET DATA

	Amount	Net loss or gain
1. DOI/BIA:		
Proposed	$1,083,000,000	
Revised	1,007,000,000	−$76,000,000
2. HHS:		
(a) IHS:		
Proposed	806,000,000	
Revised	650,000,000	−156,000,000
(b) ANA:		
Proposed	33,900,000	
Revised	28,100,000	−5,800,000
Total		161,000,000

See footnotes at end of table.

SUMMARY: INDIAN BUDGET DATA—Continued

	Amount	Net loss or gain
3. DOL:		
Fiscal year 1980	183, 900, 000	
Fiscal year 1982	81, 500, 000	−102, 400, 000
4. HUD:		
Fiscal year 1980 [1]	736, 000, 000	
Fiscal year 1982	0	−736, 000, 000
5. DOC/EDA:		
Fiscal year 1980	24, 723, 000	
Fiscal year 1982	0	−24, 723, 000
6. CSA:		
Fiscal year 1980	15, 670, 000	
Fiscal year 1982	0	−15, 670, 000
7. USDA:		
Fiscal year 1980	42, 323, 000	
Fiscal year 1982	[2] 25, 295, 000	−15, 028, 000
8. DOE'd:		
Fiscal year 1980 [3]		
Fiscal year 1982 [3]		−25, 000, 000
9. Legal Services Corporation:		
Fiscal year 1981	5, 584, 000	
Fiscal year 1982	0	−5, 584, 000
Total reduction		1, 116, 215, 000

[1] HUD $736,000,000 includes 701 planning grants and block grants to Indian tribes.
[2] USDA fiscal year 1982 budget an estimate.
[3] No firm data on fiscal year 1980 and 1982 DOE'd budgets; reduction is estimated.

DOL/DINAP

1. Fiscal year 1980 CETA budget:	
A. Section 302 [1]—prime sponsors—180	$78, 600, 000
B. Title II, public service employee slots—5,000	36, 600, 000
C. Title VI, PSE slots—5,600 [2]	46, 000, 000
D. Title IV youth conservation committee improvement [3]	2, 600, 000
E. Title IV, summer youth	39, 000, 000
F. Title VII, community based training	6, 200, 000
Total	183, 900, 000
2. Fiscal year 1981 CETA budget:	
A. Section 302—prime sponsors—192	81, 000, 000
B. Titles II and VI—slots—7,600	63, 500, 000
C. Youth programs	16, 500, 000
D. Title VII—training planned—6,700,000—actual	3, 300, 000
Total	164, 300, 000
3. Fiscal year 1982 CETA budget:	
A. Section 302 and youth [4]	81, 500, 000
B. Titles II and VI	
C. Youth—combined with section 302	
D. Title VII—training	
Total	81, 500, 000
Fiscal year 1980	183, 900, 000
Fiscal year 1982	81, 500, 000
Net reduction	102, 400, 000

[1] Most Indian prime sponsors convert section 302 funds into slots for OJT, WE or PSE; the job loss in this area will be subtantial.
[2] Job loss on reservations fiscal year 1980 to fiscal year 1982 in PSE equals 10,600 jobs.
[3] Number of youth employment slots unknown.
[4] Youth employment programs combined with section 302 manpower program . . . would expect number of prime sponsors to remain the same . . . number of youth employment slots not available.

DOC/EDA

1. Fiscal year 1980 EDA Indian budget:	
A. Economic development projects—68 [1]	$14,210,000
B. Building facilities	7,000,000
C. Planning grants—137 (230 tribes)	3,800,000
D. Technical assistance—17 grants	623,000
Total	24,723,000
2. Fiscal year 1981 planned (Carter) budget:	
A. Economic development projects	14,350,000
B. Building facilities	7,150,000
C. Planning grants—137 (230 tribes)	4,000,000
D. Technical assistance—30	1,000,000
Total	27,100,000
2(a). Fiscal year 1981 actual expenditures:	
A. Economic development projects	4,783,000
B. Building facilities	2,383,000
C. Planning grants—137	1,333,000
D. Technical assistance	533,000
Actual Expenditures Total	9,032,000
3. Fiscal year 1982 budget [2]	----------

[1] Reservations will experience considerable job loss from discontinued support of economic development projects—a conservative estimate: 50 percent of the projects will fold without continued support.

[2] There may be some "phase out funding" in fiscal year 1982.

HUD

1. Fiscal year 1980 Indian budget:	
A. Housing unit starts—4,000	$703,000,000
B. 71 planning grants—36	949,000
C. Housing improvement program (HIP)	([3])
D. Rent subsidy program	([3])
E. Indian block grants	31,500,000
Total	703,000,000
2. Fiscal year 1981 Indian planned (Carter) budget:	
A. Housing starts—4,000	$703,000,000
B. 701 planning grants	----------
C. HIP and rent subsidy	([3])
D. Block grant	33,000,000
Total	$736,000,000
2(a). Actual fiscal year 1981 budget—less in deferred expenditures	(200,000,000)
	$536,000,000
3. Fiscal year 1982 Indian budget:	
A. Housing units starts [1]	----------
B. 701 planning grants	----------
C. HIP/rent subsidy	----------
D. Block grants	([3])
Total [2]	([3])

[1] Reduction of $200 million in fiscal year 1981 and $703 million in fiscal year 1982 considered by administration to be unnecessary "budget authorities" due to backlog from prior years.

[2] Will cite as $736 million reduction on summary sheet.

[3] Unknown.

HHS

1. Fiscal year 1982 Budget:	
A. IHS:	
Proposed	$771,799,000
Revised	615,946,000
Reduction	155,853,000
B. ANA:	
Proposed	33,900,000
Revised	28,100,000
Reduction	5,800,000
C. IMPD (Head Start)	
Proposed	25,210,000
Revised	25,210,000
D. Indian Child Welfare (Act) Program	
Proposed	250,000
Revised	250,000
Net reduction	161,653,000

Legal Services Corporation

1. Fiscal year 1981 Indian budget	$5,584,257

This amount provides for support for:

a. 185.5 attorneys
b. 55 legal para-professionals
c. 31 Tribal Court Advocates
d. 123 administrative/clerical positions

Major activities involve civil litigation for low income individuals on or near all Federally recognized Indian reservations as well as legal technical assistance to Indian tribes, groups, and organizations.

2. Fiscal year 1982 budget anticipated	----------

United States Department of Agriculture

1. Fiscal year 1980 budget:

A. Farmers Home Loan Administration has $11,000,000 available for the Indian land acquisition program.

Expenditure fiscal year 1980	$600,000
B. FHA—farm and rural development programs:	
1. Support for farm operations	10,564,000
2. Support for farm ownership	5,480,000
3. Farmers emgergency relief	11,693,000
4. Recreation program	175,000
5. Soil and water projects	2,425,000
6. Rural housing	14,027,000
Total fiscal year 1980 budget	42,323,000

2. Fiscal year 1981 budget:

A. Land acquisition—$11,000,000 available, amount spent	----------
B. FHA farm and rural development programs—No data available on specific programs but expect a 20 percent cut from fiscal yar 1980[1]	
Estimated fiscal year 1981 budget	33,859,000

3. Fiscal year 1982 budget:

A. Land acquisition—$11,000,000 available at this date but this may be reduced or eliminated.

B. FHA farm and rural development programs—no specific program data available but expect a 25 percent reduction from fiscal year 1981 level of funding[1]

Estimated fiscal year 1982 budget	25,295,000

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[1] The FY 1982 Farm and Rural Development Programs budget will be cut further with the elimination of some of these programs.

Department of the Treasury

1. Fiscal year 1980—general revenue sharing	$9,500,000
2. Fiscal year 1981—general revenue sharing	11,500,000
3. Fiscal year 1982—general revenue sharing	[1] 11,500,000

[1] Allocation of general revenue sharing funds to tribal governments based on population base. The fiscal year 1982 budget could increase or decrease dependent on Indian reservation population as a percentage of general population; would expect increase for Indians base on 1980 census data.

Department of Education

1. Fiscal year 1982 title IV budget:[1]	
A. Part A:	
Proposed	$58,250,000
Revised	58,250,000
B. Part B:	
Proposed	14,500,000
Revised	14,500,000
C. Part C:	
Proposed	5,430,000
Revised	5,430,000

[1] The Office of Indian Education anticipates the proposed fiscal year 1982 title IV budget will remain as is because of the reduction or elimination of Johnson-O'Malley funding.

It is also noted that DOEd will reduce other Indian education program funding by an estimated 25 million. This includes such programs as:

Title VII bilingual education
Vocational education (1 percent set-a-side)
Public Law 874 and 815 funding
ESEA funding

Department of Energy

1. Fiscal year budget:	
A. Coalition of Energy Resource Tribes (CERT)	$1,150,000
B. Indian Energy Efficiency Program (IEEP) (non-CERT tribes)	200,000
Total fiscal year 1980	1,350,000
2. Fiscal year 1981 budget:	
A. CERT planned	1,190,000
B. IEEP planned	210,000
Total fiscal year 1981 planned budget	1,400,000
3. Actual or approved fiscal year 1981 budget:	
A. CERT	500,000
B. IEEP	----------
Total approved fiscal year 1981 budget	500,000
4. Fiscal year 1982 budget:	
A. CERT	----------
B. IEEP	----------
Total fiscal year 1982 budget	----------

Community Services Administration

1. Fiscal year Indian expenditures:[1]	
A. Special emphasis programs title II:	
1. Community food and nurtition program	$3,094,393
2. Demonstration project	12,000
3. ECEP (energy programs)	10,921,000
B. Economic Development Projects:	
1. Amount of funding	1,583,000
2. Number of projects—3	
Total fiscal year 1980 funding	15,670,393
2. Fiscal year Indian expenditures:	
A. Special emphasis programs title II:	
1. CFN	3,185,000
2. Technical Assistance	285,000
3. Community Action	600,000
B. Economic development:	
1. Amount of funding	1,221,000
2. Number of projects—2	
Total fiscal year 1981 funding	5,291,000
3. Fiscal year 1982—CSA phased out	----------

[1] CSA did not have a planned budget for Indian programs in some program areas.

DOI/BIA

1. Fiscal year budget:

	Millions
Proposed	$1,083
Revised	1,007
Net reduction	76

Senator COHEN. Do you have a prepared statement, Ms. Harjo? It would be very helpful if you could summarize it. I must soon be off to another committee hearing.

Ms. HARJO. Yes, sir. You have my full statement for the record and it can be summarized very easily.

Senator COHEN. Without objection, your full statement will be inserted into the record at the end of your testimony.

STATEMENT OF SUZAN SHOWN HARJO, LEGISLATIVE LIAISON, NATIVE AMERICAN RIGHTS FUND

Ms. HARJO. We have been overlooked and left out and we want back in.

The questions that I have about the block grant system are questions that have been raised here already. How is it going to work? What is the formula? The Nixon Administration tried for 2½ years to come up with a funding formula for block grants to tribes and never could arrive at one. Will it be devised by population, on-reservation, off-reservation service delivery population? How will that population be dispersed? How will that be calculated? Will the geography come into play, the geography of the reservation of the population dispersal, the distances people have to travel, the distances off the reservation, the geography and economy of the region within which the reservations reside? These questions are very difficult and there is a reason why previous administrations have not been able to come up with an adequate formula. The alleged savings in personnel of the BIA—400 persons—will take place only if every tribe enters into the block grant system. When might this block grant system start?

I would like to know what the tribes can do under the block grant system that they cannot do now with the Indian Self-Determination Act, the Indian Education Assistance Act, and the Joint Funding Simplification Act. For a tribe that is currently contracting under Public Law 638 for all programs now targeted for block grants, that tribe is simply looking at a 17-percent reduction in funding.

Right now the Joint Simplification Act exists and is ideally suited for Indians to have programs consolidated to cross government pat into a single letter of credit and drawn down under a lead agency. The BIA has been highly resistant to this ever since the Joint Funding Simplification Act came about because it did not wish to be the lead agency. The other Federal agencies, as long as there is a Bureau of Indian Affairs, feels that BIA should be the lead agency, so they are resistant to it.

I think the answers to those questions might be very interesting especially when, as I have stated in my testimony, there is no supply side to the Indian economy. When Arizona freezes over is when we are going to see the trickle down theory rain riches on the reservation. We do not even get a drizzle now.

With all due respect, Mr. Chairman, to my friend Jim Canan from the Bureau of Indian Affairs, I would like to take exception to his statement that the BIA and the Interior Department do not have a coordination role. The fact that the Indian tribes were not advised of the budget cuts prior to their being submitted to OMB and to the Congress is in violation of section 16 of the Indian Reorganization Act of 1934. The Secretary of the Interior is statutorily required to advise Indian tribes of all budget cuts, of all budget information. During an earlier administration, when Roy Ash was Director of the Office of Management and Budget, he delivered to then Secretary, Rogers Morton, an OMB policy which is still in effect, saying that the Secretary of the Interior has coordination across Government for this function under the Indian Reorganization Act, that it is the policy of the Office of Management and Budget that the Secretary of the Interior shall coordinate with all other Federal programs designed for Indian people and take on the task of advising Indian tribes of the Indian budget. Perhaps, if you would like I could make that letter from Roy Ash available as well as a copy of the Indian Reorganization Act and forward a copy to the Bureau of Indian Affairs.

You mentioned earlier the situation in Maine, and I would like to thank you publicly for the leadership that you exhibited in the Senate to arrive at the settlement for the tribes in Maine. The budget does not take into account people who have been left out, like the Passamaquoddys, Penobscots and Maliseets were for generations. If we are to enter into settlements of the Eastern Indian Land claims or water rights cases, where is the inducement for the Indian people to settle these cases? The inducement has been that the Indian people, on the same basis as treaty making, for having given up great areas of land, will receive services. If the services are being diminished now for the tribes that have this relationship with the Federal Government, it is certain that we will not see a great many settlements that will give up much land for continued benefits and entitlements from the Federal Government.

There is a special problem in California with the Indian tribes who have been terminated. These Indian tribes in California have been denied Federal Indian services for 20 years because of the 1958 Rancheria Termination Act which authorized over $500,000 to terminate these Indians. Not a penny was ever appropriated and the courts have determined in about 10 cases that the Indians in California are, indeed, Indians and they have been wrongfully denied services. This is a matter that I am certain will come before this committee again, possibly for legislative solution. What happens to those people? Are they out in the cold? There has been no provision for them even though the Department of the Interior and other Federal departments and agencies are very much aware of them.

The matter of coordination is key here. Coordination at OMB and White House—coordination by the Secretary of the Interior—even if they must hire a consultant to coordinate whatever level of coordination that must exist. It must be put into effect right now. I say that our problems here result from lack of coordination on the budget. That is because I prefer not to believe that it is deliberately intended that we be terminated by appropriation. The lack of coordination cuts across all of the agencies. I think the lack of coordination occurs in the Office of Management and Budget where it is a very simple matter to get up from behind one desk, walk down the hall and talk to the person in IHS about sewage and sanitation; to BIA people about roads construction; and to the HUD person about Indian housing, to see how they might touch on each other, and then to discuss reduction in job force. This has not been done and it is a very simple matter. I am glad that you are trying to do something about that. I know you are trying to do something about ending this hearing. I shall submit my additional points for the record and if there is any help that I can be to this committee, do not hesitate to call.

Senator COHEN. Thank you, Ms. Harjo.

[The prepared statement follows:]

PREPARED STATEMENT OF SUZAN SHOWN HARJO, LEGISLATIVE LIAISON, NATIVE AMERICAN RIGHTS FUND

Mr. Chairman and Members of the Committee: My name is Suzan Shown Harjo. I am Cheyenne and Creek; my citizenry is in the Cheyenne and Arapaho Tribes of Oklahoma. I appear before you as a representative of the Native American Rights Fund, established in 1970 as a nonprofit, national Indian law firm, and headquartered in Boulder, Colorado, with an office in Washington, D.C. Our staff and organization is directed by a Steering Committee of tribal people from California to Maine, who have designated the following areas as our litigative and legislative priorities: (1) preservation of tribal existence, (2) protection of tribal resources, (3) promotion of human rights, (4) accountability of governments, and (5) development of Indian law. Since 1970, the Native American Rights Fund has represented approximately 200 American Indian and Alaska Native nations, tribes and communities in the courts and before Congress.

I appreciate the opportunity this Committee has provided for Indian people to comment on the proposed budget for fiscal year 1982 as it pertains to Native American governments and people. As you are aware, the federal budget for Indians extends beyond the jurisdictions of those agencies testifying here today. The trust obligation is that of the United States, not just the Bureau of Indian Affairs, the Indian Health Service, the Office of Indian Education and the Indian Housing Program.

All federal agencies and committees of Congress share in the United States' responsibility to protect Indian rights and to assist the tribes in finding and funding lasting solutions to longstanding problems. This obligation is as unique as the Indian needs are severe, as was noted by the Commission on Security and Cooperation in Europe in its November 1979 Status Report, "Fulfilling Our Promises: The United States and the Helsinki Final Act:

"The Indian tribes are sovereign, domestic, dependent nations that have entered into a trust relationship with the U.S. Government. Their unique status as distinct political entities within the U.S. federal system is acknowledged by the U.S. Government in treaties, statutes, court decisions and executive orders, and recognized in the U.S. Constitution. . . .

"The U.S. commitment to Indian self-determination is articulated in the Indian Self-Determination and Education Assistance Act that became public law in early 1975. The policy of the U.S. Government, articulated in this law, is designed to put Indians, in the exercise of self-government, into a decision-making position with respect to their own lives. The United States has recognized that it has not always lived up to its obligations in its protection of the rights of Native Americans to a continuing political existence, to land and natural resources and to cultural distinctness.

"The U.S. Government, however, is improving its performance and attempting to close the gap between policy and practice."

Despite improvements, however, the situation of Indian people stands as the most shocking profile of any of the Nation's populations, as the Commission's Report noted further:

"Native Americans, on the average, have the lowest per capita income, the highest unemployment rate, the lowest level of educational attainment, the shortest lives, the worst health and housing conditions and the highest suicide rate in the United States. The poverty among Indian families is nearly three times greater than the rate for non-Indian families, and Native people collectively rank at the bottom of virtually every social and economic statistical indicator.

"When the federal government negotiated treaties with various tribes, it promised them that the Indian people would be provided a permanent and economically viable and self-sustaining homeland, that the reservation would be made to bloom, that the Federal Government would assist the tribes in transforming their way of life. . . . The U.S. has acknowledged that it has not yet lived up to this promise. . . . The efforts to find solutions to Indian problems is made more difficult by the highly complex governmental, economic, social and political context surrounding Indian life. The important consideration, especially in terms of U.S. obligations under the Helsinki Final Act, is that serious efforts are being made.

"The funding for Indian programs has risen dramatically in the past 20 years, and the educational, social and economic conditions are improving. In line with the government policy of putting Indian people into determinate roles, Indians are managing their own assets and administering their own programs to a greater degree than in the past.

"Resolution of problems in the future will require continued and intensified cooperation between concerned government agencies and the Native peoples themselves. More opportunities should be provided for Indians to share in the formulation of federal policy and the development of federal programs that will significantly affect their interests . . . the Commission believes the U.S. Government should energetically pursue the more equitable policy lines established in recent years and should continue to help increase public awareness of the unique nature of American Indian rights. . . ."

The bipartisan policy of the past decade—Indian self-determination, without federal termination—was embraced by President Reagan during his campaign: "I endorse 'Indian self-determination' as national policy. The Inidan Self-Determination Act (P.L. 93-638) was proposed by a Republican Administration and enacted by Congress to provide the legal and administrative vehicle for the tribal governments to secure control and management of federal programs designed to serve their constituencies. I believe that the tribal governments, as they decide they are able to administer it, should have that control. . . . The policy of 'termination' has been greatly discredited as morally and legally unacceptable and, in practical social and economic terms, devastating. . . . The policy of termination of the federal trust responsibility to Indian tribes proved to be an economic and social disaster in the 1950's and 1960's."

President Reagan's campaign commitments to Indian tribal leadership echoed the policy themes contained in President Nixon's 1970 Message to Congress, wherein the termination policy was presented in this way:

"Termination implies that the Federal Government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal Government is the result instead of solemn obligations which have been entered into by the United States Government.

"Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

"This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal Government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship of any other American."

The termination policy has been repudiated by five Presidents of the United States and specifically reversed by numerous acts of Congress. Termination of the federal-tribal relationship has not been proposed and is not the subject of this hearing. However, termination takes many forms in its initial stages, termination by appropriation being the most insidious and cruel. Termination would be the end result of the cumulative budget cuts that have been proposed to the Congress for FY 1982.

There is no supply side to the Indian economy. Though most Indian tribes have adequate resources to life themselves from poverty, years of paternalistic federal practices, excessive regulations, state and private challenges to tribal resource ownership and inadequate federal management of those resources have resulted in an Indian economy that is dependent upon the federal government for its most basic needs. To remove the props of that dependency economy without a major infusion of funds into the management of tribal resources would force Indian people off reservations and onto the welfare rolls. To further depress the severely depressed Indian economy would break the very bonds through which the United States acquired the lands that make our Nation great.

Indian people, perhaps better than any other group of people in the United States, appreciate the need to bring the overall economic picture into manageable focus. Indian people, who have suffered through good times and bad, know that the "trickle-down" theory in practice has never enhanced the quality of life at the tribal level.

Lasting solutions require the greatest of cooperation amongst the federal agencies, coordination at the White House level and diligent oversight by the committees of Congress. President Reagan has expressed this point forcefully, stating that tribal leadership "will have strong advocacy and an open channel of communications in the White House. The failure or refusal of the various federal agencies to cooperate with each other and to coordinate their efforts on behalf of the Indian tribes results in gross inefficiency, loss of costly time, and greatly reduced cost-benefit to the Indian people. This will not be tolerated in the Reagan White House."

The Administration's budget submissions, however, demonstrate a lack of cooperation amongst the agencies and an absence of coordination by the White House. To think otherwise would be to suspect the Administration of planned termination by appropriation. The task before this Committee is awesome—to attempt to present to the Congress recommendations for [illegible] sound and reasonable approach to the Indian economic situation. Toward this end, many questions must be posed to a greater number of agencies than appear here today, with their responses interwoven and viewed within the overall federal policy context.

While the Bureau of Indian Affairs budget has been targeted for what the Office of Management and Budget has called "nicks—a million here and a million there—much less than other Interior agencies," it is important to remember that the BIA budget is already a bare-bones budget inadequate to the present service delivery and resource management tasks. "Nicks" in the BIA budget will have meaning for fisheries management, for example, and must be related to cuts in the Fish and Wildlife Service and NOAA in the Department of Commerce; these reductions must then be viewed in the context of federal Indian policy and the most recent expression of Congress in the Salmon Enhancement Act of 1980. Similarly, the proposed cuts in EDA must be related to those in the Department of Energy's Indian programs and to those in the jobs and training programs. In every area of Indian life, a budget proposal exists to diminish or limit federal protection and services—health, housing, education, jobs, training, general assistance and construction of committed hospitals, schools, water projects and roads. The Indian legal services programs are proposed for zero-funding, which will deny poor Indian tribes and individuals access to the courts; at the same time, the travel budget of the Department of Justice's Indian Resource Section has been reduced, signalling a lessening of the United States' ability to adequately represent Indian tribes in litigation on their behalf.

The Native American Rights Fund recognizes the enormity of this Committee's undertaking and offers all assistance desired and requested by Members and staff. Thank you for providing the opportunity to testify today and for your commitment to a better life for Indian people.

Senator COHEN. I just want to assure all members of the panel that the specific purpose for calling this hearing was to find out from Administration witnesses exactly what they have in mind, whether they have subjected it to the kind of scrutiny that you would like. Frankly, the purpose of this committee's existence is to oversee and review the proposals and see whether they are, in fact, consistent with the goal and whether they will be cost effective and achieve the very results that they are intended to, or be counter-productive as you have suggested.

Thank you all for appearing this morning. The Select Committee's memorandum regarding oversight hearings will be inserted into the record of this hearing, without objection.

[The memorandum follows:]

MEMORANDUM

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C., March [illegible], 1981.

To: William S. Cohen, Chairman, and committee members of the Select Committee on Indian Affairs.
From: Tim Woodcock, Staff Director.
Re: Oversight Hearings—March 23, 1981.

The oversight hearings scheduled for March 23 involve four separate agencies: the Bureau of Indian Affairs (Interior); Indian Health Service (HHS); Office of Indian Education (Ed); and HUD with regard to Indian Housing programs. The programs administered by these agencies, particularly the BIA, are extremely broad literally spanning the entire spectrum of governmental activity of Federal, state and local government, but with the addition of management and protection of Indian trust resources and litigation on behalf of Indian interests.

The Carter fiscal year 1982 budget proposals for these agencies was a conservative document with tightened funding in a number of areas, generally failing to match the costs of inflation with commensurate budget increases. An example of its austerity was the complete failure to ask any funding at all for school construction although needs have long been known. We expected Indian concern over the Carter proposals. The Reagan fiscal year 1982 proposals have completely altered this problem.

BUREAU OF INDIAN AFFAIRS (BIA)

For fiscal year 1982, Carter proposed total funding for BIA operations at approximately $1.5 billion. (Approximately $500 million of this sum is actually Indian money held in trust by the United States, but subject to expenditure only upon appropriation by the Congress.) Of the approximately $1.0 billion of appropriated money, the Reagan proposal would reduce the total by $75.9 million. Of this sum, $40.6 million saving is to be achieved by lumping 10 disparate programs together in a block grant to the tribes. According to the Reagan proposal, this will allow a reduction of up to 400 positions in the Bureau and, when coupled with reduction in the program levels, will reduce expenditures for these 10 programs by 25 percent. Some of the programs blocked in bear no relationship to the remainder of the blocked programs. Also, most are not "BIA personnel intensive" and block granting would not appear to have any relation to the 400 positions they propose to cut. In addition, the "block grant" regulations being drafted by the Bureau will not be in place until fiscal year 1983. Thus, the block grant concept cannot be used as a justification for the fiscal year 1982 budget cuts. Aside from budgetary cuts, there are major problems associated with the block grant concept insofar as delivery of programs to Indians residing off the reservation, such as in urban areas or rural areas not near the reservation.

In addition to the $40.6 million to be saved by block grant, the Reagan proposal would cut $35.3 million through reductions in various other programs. The most serious problem associated with these additional cuts is the plan to eliminate a $1 million request for funding of the Tribal Managers Corps, a new initiative in delivering technical assistance and management capability to tribes; a $1.3 million reduction in the Business Enterprise Development program as a beginning of a two-year phase out of the entire program; and, a $600,000 cut deleting a new initiative in forest management. These three programs total only $2.9 million and are programs targeted at enhancing tribal capacity to manage its own governmental affairs, bring business and employment to reservations, and stimulate the tribal forestry programs. The wisdow of these proposed cuts should certainly be questioned.

INDIAN HEALTH SERVICE

On the whole, the Indian Health Service survived the Carter austerity budget in relatively good shape. The Reagan proposal leaves intact that portion of the Indian Health Service programs which deliver health care to Indians. Its impact is found in the disfunding and abandonment of three programs and uncertainty as to the status of a fourth program area.

The Reagan proposal would reduce by $1.9 million the fiscal year 1981 appropriation for the Indian Health Manpower Program, which brings the Reagan request down to $3,792,000, or some $3,525,000 below the Carter proposed fiscal year 1982 budget. The Indian Health Manpower Program is authorized by Title I of the Indian Health Care Improvement Act of 1976 (IHCIA), as amended, and provides scholarships and recruitment for Indians pursuing health careers. This proposal begins a two-year phase-out of the program in its entirety. Students already enrolled in educational programs will continue to be funded through completion of their studies, but no new students will be funded. It also eliminates all section 102 recruitment programs. The justification for the phase-out includes the contention that the program represents only a small part of the federal funds available to Indians to support such training and that under the fiscal year 1982 budget funds available for Indian health career scholarships include the BIA Indian education block grant program, the Office of Indian Education fellowship programs and scholarships available to Indians without regard to their status as Indians. There are questions as to the adequacy of the other scholarship programs' funding levels, the lack of flexibility for remedial work under such programs, and the likelihood of a sufficient number of Indian students able to compete and secure funding from other "non-Indian" sources.

The Reagan budget also begins a two-year phase-out of the Urban Indian Health Program. This program, authorized under Title V of the Indian Health Care Improvement Act, provides referral and other health services to Indians in 41 urban areas. This program was provided by Congress to address the problems of Indians in urban and rural areas who are not familiar with available health services and thus do not receive services. The referral and outreach services provided by urban Indian health projects are still needed. It should be noted that in the last Congress, the reauthorization of the Indian Health Care Improvement Act added a nonreservation rural component to the Title V urban program and no funds were requested in either the Carter or Reagan budgets for implementation of this new program. Rural groups have not been successful at securing state or local funding in the past. Urban groups were able to attract such local funding only after they had an on-going program begun with federal funds. The fiscal year 1982 Reagan budget cuts $4.5 million from the urban program.

The Reagan proposal would completely disfund the sanitation construction program. This will eliminate $73 million for sanitation facilities for 7,833 Indian homes on Indian reservations. The justification for this is that the Administration plans to cease further federally-supported Indian housing construction. The justification by HUD for seeking no funds for Indian housing in fiscal year 1982 is that they intend to terminate further HUD Indian housing projects. HUD contends that there is already sufficient funding in the housing pipeline to maintain the effort in the near future at 4,000 units per year for the next 5½ years. However, in the absence of the IHS sanitation construction funding, housing units already built by HUD or those which are in the "pipeline" will not receive any water or sewer connections. Thus, even if HUD is sustained in its plan to terminate housing construction on Indian reservations, funding for IHS sanitation construction is still needed to cover the homes already in process.

There are other problems and concerns associated with the Reagan budget proposals for the Indian Health Service, but the above represent the most serious matters for our Committee's attention.

HUD—INDIAN HOUSING PROJECTS

The Reagan budget proposals for HUD call for complete disfunding of any programs for housing construction on Indian reservations for FY '82. As noted above, the justification for this is that there is a current backlog of 22,000 funded, but unfinished Indian housing units representing a 5½ year supply at the 4,000 unit program level proposed in the Carter budget. The Reagan budget further notes that the "average budget authority cost of over $175,000 per unit there is no reason to continue this very expensive and substantially backlogged program." The $175,000 figure does not represent the construction cost of the average housing unit. Rather, it contemplates the entire amortization of the housing over a 28 year mortgage period. Actual construction costs average about $67,000 per unit. Similar programs for non-Indian housing calculated on the same basis average about $145,000,000. There is reason to believe many of these units are in Alaska where costs are exceptionally high. For an accurate picture, unit construction costs for Indian "mutual self-help housing" should be compared with similar costs for non-Indian "mutual self-help housing" programs in similar geographic areas. When properly analyzed, it would appear there is no more justification for terminating the Indian program than there would be for terminating the non-Indian program.

OFFICE OF INDIAN EDUCATION—DEPARTMENT OF EDUCATION

The office of Indian Education, established pursuant to the Indian Education Act of 1972 (Title IV of Public Law 92-318), administers a compensatory education program to address the special education and cultural related academic needs of Indian students in public schools and Indian-controlled schools (Part A); to develop more effective approaches to improve educational opportunities for Indian students, to train qualified Indian education personnel, to provide services where none other exist, and to assist Indian students pursue post-secondary education (Part B); and, to improve educational opportunities below the college level for Indian adults (Part C).

This is the only education program for Indians which serves federally recognized, terminated, nonfederally recognized, and urban Indian populations. The Carter Administration had requested $101,816,000 for this program, but the Reagan Administration is requesting $81,096,000. The Reagan budget maintains the total funds available for grants at the fiscal year 1981 level and provides $2,916,000 for program administration, which is the same amount included in the Carter fiscal year 1982 budget for administration. However, $1 million has been shifted from Part A to Part B to provide the following amounts for the programs administered by OIE: Part A—$57,250,000; Part B—$15,500,000; and, Part C—$5,430,000.

The Reagan Administration is not proposing to include the program administered by the Office of Indian Education in state block grant proposals. It also proposes to continue for the out years the fellowship program under Part B at about the same level appropriated in FY '81 and requested by both the Carter and Reagan FY '82 budgets. This amount of $1.5 million provides stipends to students and tuition payments and fees to universities for students in graduate study in medicine, law, and education, and undergraduate or graduate study in engineering, business administration, natural resources and related fields. The Reagan Administration has pointed to this fellowship program as an alternate source for funding for Indian health career scholarships after the phase-out of the Indian Health Manpower Program at IHS. However there are competing areas of study in this program and the Office of Indian Education is expecting some 850 applications for the estimated 205 fellowships available with the amount requested for FY '82. Both the Office of Indian Education and the Bureau of Indian Affairs should be queried as to what extent each agency will be able to absorb the students now covered by the Indian Health Manpower Program.

OTHER AGENCY CUTS IMPACTING UPON INDIAN GOVERNMENTS AND PROGRAM CAPABILITIES

There are major problems within each of the budget proposals for these four major programs. More important, so far as is known by Committee staff, there was no effort by OMB prior to this budget submission to assess the overall impact on Indian programs in the context of cuts of programs in other Federal agencies. Among the programs from which Indian tribes and Indian programs generally have drawn funding and which are scheduled for reduction or elimination are the following:

HUD: 701 Planning Grants, Community Development Block Grants, Urban Development Action Grants, Indian Housing.
Comm: Economic Development Administration.
Labor: CETA.
HHS: Administration for Native Americans.
Justice: Juvenile Justice and Delinquency Prevention Program—LEAA.

The Bureau of Indian Affairs is working with the OMB in an attempt to piece together the actual total impact of the Reagan budget proposals on the Indian community. There is every reason to believe that the austerity cuts proposed by the Reagan Administration will fall more heavily on the Indian communities than it will on other population groups generally. One reason for this is the diversity of funding sources from which tribes have drawn support for operation of individual programs. Diminishment or elimination of one funding source necessarily diminishes or eliminates the capability of the tribe to operate programs partially funded under other sources. A second reason for concern is that the tribal government infrastructure, to a far greater extent than either state or local government, is dependent upon Federal program money. This flows from the fact that tribes generally do not have a local tax base.

Senator COHEN. The hearing will now stand adjourned.

[Whereupon, the hearing adjourned at 1:20 p.m.]

APPENDIX

STATEMENTS RECEIVED SUBSEQUENT TO THE HEARING

PREPARED STATEMENT OF THE DUCKWATER SHOSHONE SCHOOL BOARD, PRESENTED BY JERRY MILLETT, MEMBER

Mr. Chairman and members of the Select Committee on Indian Affairs, thank you for inviting my Tribe to offer testimony. My name is Jerry Millett. I am the Chairman of the Tribal Council of the Duckwater Shoshone Tribe. I am also a member of the Duckwater Shoshone School Board.

The Duckwater Reservation is located in the high range country of central-eastern Nevada. It is a small, rural, isolated, agrarian community. The on reservation membership of the Tribe is approximately 150. The total tribal membership is approximately 265.

In 1973, in response to a community defined need, the Duckwater Shoshone Tribe established the Duckwater Shoshone Elementary School, under the control and direction of the Duckwater Shoshone School Board. The school provides educational services to the Duckwater children from pre-school through grade 8. The K-8 student population is 24. The total student population is 30. The emphasis of the school has been to develop survival skills in the areas of reading, mathematics and language arts. The instructional program has resulted in student gains in grade levels in these basic skill areas which exceed national norms. (Based upon analysis of pre and post California Achievement Tests.) However, the importance of the Duckwater Shoshone Elementary School is far beyond these academic achievements. In every sense the Duckwater Shoshone Elementary School is a tribally controlled community school The school is the focal point of the community.

The Duckwater Shoshone Elementary School is a contract school. As a result, it come within the purview of the Indian School Equalization Formula mandated by P.L. 95-561. Section 1128(a) Public Law 95-561, directs the Secretary of the Interior to establish a "formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school." The allotment formula, which we understand to be an interim measure, if left to stand in its present form, will force the closure of the Duckwater Shoshone Elementary School. This result is a frustration of the policy wisely established by Congress to "facilitate Indian control of Indian Affairs in all matters relating to Indian Education." (Public Law 95-561, Section 1130).

In order for us to sustain the delivery of educational services at the Duckwater Shoshone Elementary School, we have combined as operating funds the allocation from the Public Law 95-561 formula and a grant from the Office of Indian Education. Title IV OIE grants are not secure and, in most cases are not intended to provide basic operating funds. We understand there are several other Indian Controlled contract schools in the same circumstances. A loss of Title IV funds coupled with the unrealistic allotments under the Indian School Equalization Program will cause their closure also.

We do not think it is the intention of this Committee, nor was it the intention of the Labor and Education Committee or the Congress to have such a drastic effect on Indian controlled contract schools. Our school is not only important to our Tribe but more importantly it is the future of our children. We believe quality education is a very important step upward if we, at Duckwater, are to achieve our ultimate goal of self sufficiency. Since our tribally controlled elementary school started we have not had a single high school drop out. This speaks well for Indian controlled education.

The Duckwater Shoshone School Board and the Duckwater Tribal Council are requesting this Committee to direct the Bureau of Indian Affairs to modify

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this purportedly interim formula so that a base allocation is provided to each tribally controlled contract school which assures the continued operation of that school. We recognize that this directive will require substantial modification of the Indian School Equalization Program. Bureau representatives and consultants have testified before committees of Congress that the present formula needs "simply a revision" or "only fine tuning once we find out how it works in operation." We dispute this assessment, and we are disappointed in that the Bureau has not seen fit to meet with the Duckwater Tribe or other Tribes regarding the effects the present formula will have on a small school such as the Duckwater Shoshone Elementary School. Any formula which will force the closing of an operation as successful as ours needs more than "fine tuning." The FY 1981 formula allocation for the basic operation of the Duckwater Shoshone Elementary School is insufficient to cover instructional personnel costs.

The Indian School Equalization Program makes an assumption that all classes of schools have the same needs and problems. We maintain this assumption is false. We suggest it is necessary to make distinctions of the classes of schools under the jurisdiction of the B.I.A. in order to develop an equitable formula. Areas for distinction exist in schools under the jurisdiction of the Bureau: Bureau operated schools; former Bureau schools operated under a contract; dormitory schools, both Bureau operated and contract; and, contract schools developed in response to a tribal, community need. Another fundamental distinction can be made pertaining to all small schools under the Bureau's jurisdiction. We think distinctions of this nature must be made in order to devise an adequate funding mechanism. Once the distinctions are made we think a formula can be developed which is needs based and considers the actual and reasonable costs of school operation. The distinction will allow the formula to consider the type and scope of service offered, the need for those services and the reasonable cost of those services. We propose a formula which encompasses a class of small, community based tribally operated schools and sets a reasonable minimum operating figure for that class and then distributes the remaining funds in an equitable manner.

For the Committee's information, I am including a background paper prepared for the Duckwater Shoshone School Board in the Spring of 1980. In our opinion, this analysis of the P.L. 95-561, and the Indian School Equalization Program is still applicable and the immediacy of the small contract school problems merits its thoughtful consideration.

Thank you.

ANALYSIS OF PUBLIC LAW 95-561 AND THE INDIAN SCHOOL EQUALIZATION PROGRAM

I. PROBLEM STATEMENT

The "Indian School Equilization Formula," developed under the direction of the Bureau of Indian Affairs in response to the Congressional mandates articulated in Public Law 95-561, the Education Amendments of 1978, is ill-conceived and will result both in closing some schools and in creating or maintaining inequities in the provision of educational services to Indian children within the Bureau of Indian Affairs system. By adherence to the formula as currently promulgated, Bureau of Indian Affairs operated schools will have an advantage over tribally operated schools; large schools will have an advantage over small, urban schools will fare better than rural, large group instruction is encouraged to the exclusion of individualization, and programs which address specialized needs (e.g., vocational education) receive little, if any, support. Furthermore, there is serious question regarding the adequacy of the "base amount" identified as necessary for providing a "minimal level of services." The potential closure of schools underscores such inadequacy.

II. HISTORICAL CONTEXT

While this is not intended to be nor is it an accurate statement of the legislative history of the formula, it is important to emphasize certain pressures which influenced its development. For many years preceding the development of the formula, tribal groups repeatedly criticized the BIA for ineffective management of educational services provided Indian children. One area stressed to the Appropriations Committee was the Bureau's unequal allocation of fiscal resources, not only among the schools which it operated but also among contracted programs. In addition to this criticism generated by tribal groups, the BIA's management of educational programs was criticized in numerous evaluation reports submitted to Congress by the Comptroller General.

In the Education Amendments of 1978, P.L. 95–561, Congress utilized a legislative vehicle for revision of the Bureau's operation of educational programs. Title XI of the Act delineated an outline for a comprehensive reorganization of BIA educational functions. The Indian School Equalization formula was one of the reform thrusts.

Of importance to recognize is the fact that while tribal groups have historically criticized the BIA's operation and administration of education programs, the remedies which Congress has chosen to hopefully correct Bureau inequities are, in fact, ultimately turned to the advantage of the BIA and the detriment of tribal self-determination.

III. CONCEPTUAL OVERVIEW

A. *Values affecting public educational policy*

Three widely held values which have historically influenced public educational policy are equity, efficiency, and liberty (local control). While as abstract goals they gain general support by American society, operationalizing such values is problematic. The issue of equity in education provides an example. By equal educational opportunity, do we mean equal availability of services, or services to each according to need (compensatory education), or equal educational outcome (competency)? Does the current equalization formula distribute scarce resources on an equal basis, or does it address actual need and cost of providing a minimum level of services on a site-specific basis? If equity is defined as providing compensatory services to special need groups in order to equalize opportunity, then a formula must address the differentiated costs associated with the provision of such services. A formula that results in an equal distribution of limited resources is antithetical to recognition of special needs. It would probably be wise to ask the BIA to make explicit what they see the formula as doing. The Act addresses the establishment and support of an educational system which is organized to meet the "minimum academic standards for the basic education of Indian children." How does the formula aid in achieving this goal?

The salience of contextualizing these values for an analysis of the equalization program is that they are relied upon for a legitimation function, but when operationalized through the formula, have definite political and policy implications.

B. *Formula funding*

The allocation of financial resources throughout an educational system in accordance with a distribution formula is a sound idea. Title XII, Part A, "Equalization," of P.L. 95–561, emphasizes the national policy of equalization of resources for elementary and secondary education among schools, and encourages the development of systems which achieve equalization.

An equalization formula which is based on basic student units and a system of weightings of classes of pupils is a viable approach. However, it is not without its limitations. If a weighting plan for need equalization is to be equitable, it is necessary to have accurate data concerning the program costs for special categories of students relative to the program costs for normal elementary students in order to generate an accurate ratio of costs for establishing a specific weight. While this is a sound approach, it is difficult to do because there does not yet exist an agreed-upon technology for educating each category of student. Consequently, it is difficult to agree upon the extra cost involved. It is also important that a weighting plan consider the existence of price differentials arising from geographic or demographic differences among schools. It simply costs more in different geographic areas to provide the same "standard" of service.

C. *School finance reform trends*

Current trends in school finance reform, while partially concerned with taxation issues, are relevant to the Indian School Equalization Formula. Four major trends are apparent. First, much effort is being devoted to the development of a technology which can identify a basic unit of analysis to be utilized as a minimum standard upon which to base any weighting for classes of students or cost differentials. Secondly, many school systems have financing plans which involve weighting. To achieve equity, weights are assigned to or consider many classes of pupils (e.g., handicapped, bilingual, culturally disadvantaged), many classes of programs (e.g., vocational education), size differences, sparcity, cost differentials and pupil-teacher ratios. Thirdly, several states have recently, through statute, directly connected the state school financing plan to established state educational standards. Lastly, many school systems have recognized the need for uniform accounting procedures in order to gain basic cost data, both on a comparative basis among schools/programs, and on a longitudinal basis with individual schools/programs.

IV. INDIAN SCHOOL EQUALIZATION FORMULA

A. General

The current Indian School Equalization Program does not satisfy the intent of the Act nor does it meet the specific requirements of the Act.

Section 1128(2) requires the "development of the minimum annual amount of funds necessary to sustain each Bureau or contract school." If forced to operate under the limitations of the present formula, some schools will close, the Duckwater Shoshone Elementary School being one.

Section 1128 also requires the consideration of a variety of special factors in the development of the formula. While the formula does address (although inadequately) several factors, other critical factors are not considered. By not considering factors such as sparcity, the need for special staffing or educational programs, overhead costs for administering contracted programs, or cost differentials, the formula does discriminate against schools for which these factors are significant. As a class, contract schools are penalized by the formula as they are affected by such factors.

Section 1130 articulates the federal policy of Indian control of Indian affairs. Facilitating local control involves recognizing and addressing local needs and priorities. The current formula is not needs-based. The Bureau does not currently have accurate, reliable data concerning specific school sites. It is doubtful, therefore, that the current formula, by allocating resources irrespective of need, is either supportive or facilitative of local control.

B. Design Limitations

(1) The dollar amount determined as representing the per pupil cost for providing a minimum standard of services is $1819

What evidence can be the BIA marshal to defend or justify this determination? If some schools would be forced to close under the formula, how can the Bureau defend the amount as adequate to sustain "basic services"?

(2) Weightings

(*a*) *Size consideration.*—Section 31h.14 provides for special entitlements be given to small schools. However, the calculations used to determine the additional weight to be given small schools does not appear to be adequate to meet the actual costs associated with small school operation. In the situation of the Duckwater Shoshone Elementary School, the increase calculated pursuant to Section 31h.14 amounts to approximately 20 percent. On a comparative basis, this adjustment is much smaller than adjustments included in, for example, the state financing plans of Alaska or New Mexico. New Mexico, a state which does have many small schools, has a formula which would generate 100 percent more per child for a school district the size of Duckwater than for a district of average size (400). If the Bureau's formula is based upon contemporary school finance experience, why is there such a discrepancy in the amount of adjustment for small schools?

(*b*) *Sparsity.*—No consideration is given to the effects of isolation on the cost of school operation. The State of Alaska has, for years, acknowledged sparcity as a legitimate excess cost factor. The developers of the Bureau's formula claim to have relied on state school finance experience—especially, the Alaska plan. Why, then, is sparsity not included as a factor in the present formula as some schools are adversely affected by geographic isolation?

(*c*) *Differential costs.*—In addition to the handicap imposed by isolation, costs are also influenced by differentials in the "market basket" cost of goods and services. The formula does provide an add-on weight of 0.25 to meet salary cost differences for Alaska schools but does not acknowledge the same need in other school locations. While there should be no question regarding the legitimacy of such a consideration for the needs of schools located in such a unique state as Alaska, one questions both the adequacy of the amount of the add-on weight.

(d) Program design.—The formula only recognizes two program services as requiring weighting: Intense bilingual and Exceptional Child programs. However, no consideration is given to other recognized special programs, such as vocational programs. This omission dramatically affects schools with large vocational programs like Intermountain. This omission is significant, not just because it places a severe handicap on schools trying to provide vocational programs, but also because substantial research exists upon which to base at least a rudimentary weighting system. Florida, a state regarded as a leader in financing plans based upon the weighted student unit, has recognized the additional costs associated with vocational programs and has a differentiated weighting system for various types of vocational services, providing per pupil increases ranging from 17 percent to 326 percent.

(e) Overhead costs for the operation of contract schools.—There exist at least two distinct categories of schools funded pursuant to the formula: Bureau operated and contracted programs. Bureau operated schools can utilize a whole gamut of federal resources (e.g.; the services of contracting officers, solicitors, auditors), whereas contract schools, by virtue alone of the adversarial nature of the contractual relationship, must themselves provide for these services. Thus the overhead costs associated with operating contract schools are significant and cannot be absorbed by other segments of the federal bureaucracy as in the case of a Bureau operated school. The Bureau has assumed that such costs will be covered by funds resulting from application of a negotiated indirect cost rate allowed under Public Law 93-638, the "Indian Self Determination and Educational Assistance Act," which is the authority for tribal contracting for educational services. This is a faulty assumption because it is rare that a tribe is able to negotiate a rate which actually covers all administrative costs. The situation of a small school is exacerbated by the fact that in comparison with the costs of direct instructional services, administrative costs, while not great in terms of absolute dollars, could result in a rate as high as 100 percent.

The problem is extended by the fact that most BIA schools are "established" whereas contract schools are still in various stages of development as formal organizations or institutions.

(3) Relationship to Educational Standards (draft) and Personnel Standards (25 CFR Part 31g)

(a) Educational Standards.—Section 1121(b) of the Act requires the development of "minimum academic standards for the basic education of Indian children." While they are still in draft form, the establishment of educational standards will have a direct impact on school operation. The standards are quite comprehensive and specific regarding the scope and design of BIA operated and contracted educational services. For example, Section 2.9.2. requires that, to be "recognized as a special Vocational-Technical high school (as Intermountain), such schools shall offer no less than five distinct programs." If, then, this is a requirement based upon meeting a minimum standard, why does the formula not address the costs associated with providing such required services? Based upon even a cursory review, there appears to be no articulation between the formula and the standards. The State of South Carolina, for example has by statute tied its state school financing plan directly to established standards. Why has not the BIA considered this? Admittedly, the standards are still in draft form, but what evidence exists that the BIA can and will eventually correlate the two?

(b) Educational Personnel.—Standards concerning educational personnel employed in BIA programs were adopted and published in November, 1979. The regulations establish wage scales and minimum qualifications, both directly impacting costs; however, no consideration of the effect of these standards is apparent in the formula. This again suggests that the formula is, at best, ill-conceived.

(c) Implementation limitations.—

i. Data

The data upon which the Bureau has based the development of the formula is spurious. The Bureau has not had an adequate system for either measuring or defining specific services, or for accounting for educational expenditures. This opinion is supported by both GAO reports and BIA admission. Furthermore, any data that the Bureau has been able to marshall, even if it can be manipulated in such a manner as to provide an indication of expenditure, could only be seen as a distribution of available resources, with little indication of need or reasonableness of cost.

ii. Management information system

In Section 1132 of the Act, the BIA is directed to establish a computerized management information system which hopefully is to correct the aforementioned inadequacies with the Bureau's data base. Such a system is not yet operational and it is doubtful if it will be on line for some time yet. It is further flawed by the inappropriateness of its design and data collection methods. It is probably reasonable to assume that the accuracy of BIA generated data will be highly questionable in the immediate future.

iii. Assumptions regarding formal and informal BIA operational procedures

In failing to consider the formal and informal structures which exist in organizations which are to be subjected to "planned change," the actual reasons for success or failure of such a plan are lost. Even considering that there were no mechanical problems with the formula (which, of course, is not the case), numerous Bureau formal and informal operational variables exist which jeopardize the viability of the formula—at least, for all classes of schools funded through the Bureau. For example, no recognition is given in the formula to the role of the BIA Contracting Officers and their staffs, while contract schools must directly negotiate with that office under the provisions of Public Law 93-638. There currently exists in the Bureau a power struggle involving Contracting Officers and Area Directors (BIA) and Area Education Assistant Directors (BIA). Contracting Officers rarely have knowledge of education services, either with regard to programmatic features or appropriate accounting methods. Yet this Bureau office is the one which "negotiates" legitimate costs constituting an acceptable indirect cost rate. This is the same cost rate from which the formula developers would have us assume that all reasonable and appropriate administrative costs are to be supported.

Another problematic situation involves the organizational controls which the Bureau can use to the detriment of contract schools. By restricting the time allowed for decision-making and by not authorizing funds until well into the contract period, the Bureau has forced the contract schools to make expenditures in a stop-gap and somewhat haphazard manner. This results in expenditure patterns which do not represent a response to need but rather a response to limitations on resources.

V. ANTICIPATED BIA RESPONSES

Four domains of potential BIA responses to questions regarding the formula are:

A. Planning Stage

An oft-repeated response is that the Bureau is currently working on the specific problem and/or that the problems will be addressed in next year's revision. This response might be palatable were it not that schools will close under the formula.

The response also assumes that the planning model (if any) utilized by the Bureau is adequate or that it would be followed. The BIA system would appear extremely vulnerable to attack for the inadequacy of its information management system.

B. Based Upon Current Knowledge

Another response might be for the BIA representative to rely upon the "power of professionalism" as legitimation and assert that the formula is based on contemporary practice and research in educational finance. This is questionable. Contemporary theory and practice grants consideration to a large variety of differential cost categories and yet the BIA-generated formula omits such consideration.

C. Data Indicates

Problems with the Bureau's data base and information management system have already been indicated. Any data cited should be examined rigorously, and none should be assumed to represent an accurate statement of need.

D. Participation of Field Representatives

In an attempt to indicate general concensus among the schools with the formula, the Bureau will probably stress the fact that the formula was developed with field participation. The Duckwater Shoshone School Board has provided both written and verbal commentary on the formula concept and its draft forms, yet, many of their issues and concerns have gone unanswered.

VI. RECOMMENDATIONS

While it is one matter to illustrate the limitations of a particular program, it is yet another to suggest viable alternatives to that program. The complexity and importance of the fundamental issue which the formula is proported to address—the effective and appropriate education of Indian children—deserves a patient, studied response, an impossibility given the current time and resource limitations. Consequently, the following recommendations represent either stopgap measures directed at neutralizing the probably harm which the formula will cause, or measures which would aid in the improvement of the formula funding approach. These recommendations are:

A. Assure that schools will not close as the direct result of the formula not generating sufficient funds for continued operation. This could be possible either by requiring the Bureau to make such guarantees or by the Committee providing a specific appropriation for a language in the bill that would assure adequate funding to those schools facing potential closure.

B. Force the BIA to make as explicit as possible the assumptions upon which the present formula is based, the limitations which the formula does have, and the specific actions that the Bureau intends to take to revise the Indian School Equalization Program. While this may not result in determining that the Bureau will act in a prescribed manner, it would be helpful in providing the Committee with an awareness of the political nature of the supposedly "objective and neutral" funding formula.

C. In the revision of the formula, something that the Bureau has already acknowledged as necessary, consideration must be made for both special need categories and areas evidencing cost differentials. At minimum, this should include realistic weighting recognizing factors such as: sparcity, size, differentiated costs, organizational structure, types of programs (e.g., vocational education), and overhead costs.

PREPARED STATEMENT OF MISSISSIPPI BAND OF CHOCTAW INDIANS, SUBMITTED BY PHILLIP MARTIN, CHIEF

My name is Phillip Martin, and I am the elected Chief of the Mississippi Band of Choctaw Indians, a federally-organized tribe of some 4,300 members living on 17,000 acres of trust land in east central Mississippi. The majority of Choctaw people live in families with incomes falling below the OMB poverty guidelines. The on- and near-reservation unemployment rate is at 36.8 per cent of the labor force. The population is extremely young, with a median age of 17, and the population growth rate is 3.5 percent per year.

The tribe, over the past several years, has been actively pursuing a strategy of industrial and business development in order to raise incomes, reduce unemployment, and reduce federal dependency.

We believe that the progress we have made is in line with the economic policies the new administration has proposed and we strongly support these economic policies. Two important ingredients in our progress have been our people wanting to work and the natural resources in our area. Using guaranteed loan funds through the BIA and a $342,000 grant from EDA, we have constructed and started up an automotive wire harness assembly plant on our Industrial Park which supplies harnesses to the Packard Electric Division of General Motors Corporation. Today, we have 215 persons employed producing harnesses for Chevrolet pick-ups and Buick sedans. (At the same time, the tribal construction company has raised its employment level to 60.)

This wire harness plant was a major breakthrough for the tribe. As a result of an inspection of this plant, the American Greetings Corporation was impressed with tribal operations and we have carried out negotiations with them to enter into a contract to construct a 120,000 square foot building and to become a dedicated supplier of American Greetings, employing around 300 individuals.

As success seems to be bringing success, we are dealing with other industries who are interested in dealing with us. Thus, by this Fall, we will have created 575 non-federal jobs on the reservation, with even more projected in the future.

We realize that this development of the private sector, this development of reservation economics, is the ultimate answer for the oppressive conditions under which Indian people live today. But while we are getting started in this area, there are direct services which must be provided to Indian people by the federal government, both because of the special relationship with federally-recognized tribes and because funds are available from no other source. These areas of direct services are education, health care, social services, roads, and housing.

Let me first speak of the Self-Determination policy and proposed BIA block grants. The Mississippi Band of Choctaw Indians was among the first tribes to actively pursue tribal self-determination. The tremendous economic progress we are making on the reservation which I just described, has been a result of the efforts, not of the BIA or other federal agencies, but of the tribal government itself. Reservation economies could not be developed without federal support for tribal governments.

But now, the Bureau is claiming to be encouraging self-determination through a supposed block grant system of tribal government services programs which includes a 25 percent overall reduction. We have four major concerns about this consolidation proposal.

Number one. Tribes, as a special federal responsibility, have almost exclusively federal financial support. For other governments, federal support as a percentage of total support is far, far less. Thus, any reduction of an "across-the-board" percentage impacts far more drastically on members of federally-recognized tribes than on the citizens of other governments. In Mississippi tribal expenditures will be reduced 25 percent, while state expenditures will be reduced only 9.5 percent.

Number two. The Bureau's block grant system would seem appropriate as a means to obtain an increased level of self-determination, but not when used as a means for transferring the apparent responsibility for the effects of budget cutbacks to tribal governments from the Bureau.

Number three. Approval is being requested for dollar figures before the system itself has been described. The Bureau calls it in a News Release: "a new grant mechanism with the attributes of a block grant." Does this mean it is, or it isn't, a block grant?

Number four. We fear this BIA block grant might serve to divert concern from a far more crucial question: "What will be the involvement of federally-recognized tribes in the block grants to states proposed for other federal departments?

The states, presently the conduit for most federal goods and services through block grants, are legally unable and unwilling besides, to serve federal Indian reservations. The Bureau of Indian Affairs has served as a less and less important conduit of funds to tribes as the agent of the government in fulfilling the trust responsibility laid out in treaty and other established law. Congress has increasingly seen fit to place lesser emphasis on the BIA by making discretionary grants available to other governments from HUD, Department of Education, HHS, and others, available to tribes. It should be clearly understood that states and counties have no legal jurisdiction on Indian reservations; and have no power to legislate for citizens of tribes on reservations. Block grant channeling of the programs from the forementioned agencies to states will have the effect of bypassing Indian citizens entirely.

The block-grant-with-Indian-set-aside approach (usually expressed in terms of a percentage of total) most clearly addresses unique Indian needs on a federal departmental or program basis. It, however, would require a separate, though small, addition to each department's bureaucracy to monitor block grant administration at the tribal level. Because we realize the necessity of the Administration's aim to reduce the size of the federal bureaucracy during a time of inflationary crisis, we would suggest consolidation of the various block grant Indian set-asides as a "pass through" to tribes under the monitoring function of a single agency. This would require only a minimal amount of additional administrative costs at the federal level.

Logically, this agency would be the Bureau of Indian Affairs for the federally-recognized tribes. The Administration might also consider along with this "pass through" approach, the reconsolidation of the Bureau and the Indian Health Service.

This method of block granting would not only address the legal status of the federally recognized tribes and the special responsibility of the federal government towards them; but would also give the BIA a block grant system that would address the enhancement of self-determination, rather than merely pass the buck on specified responsibility for budget cutting.

EDUCATION

The Choctaw Agency, BIA, serves in excess of 1,100 students at six locations on the reservation. Because, we assume, of the formula contained in Public Law 95-561, the personnel ceiling for education programs on the reservation has already been reduced from 271 to 141, a greater than 25 percent reduction (on which, by the way, the tribe was not consulted). Parents are concerned that their children will arrive at school next year to find classrooms empty of teaching staff.

The education of Indian children is a special responsibility of the Department of the Interior, in part because tribes, unlike local school districts, have no tax base from which to fund educational activities. Any cutbacks in federal funds are thus irreversible at the local level. While the taking of educational opportunity from our children would not immediately threaten life and limb, tribes realize that their only hope of long-term increase in the Indian standard of living is through education of their young people.

While we agree that reductions in the BIA education budget have been to some extent a response to waste and mismanagement, our question is, "Why are our children being punished for it?" This past year, among our junior high and senior high population, we had one successful and fifteen attempted suicides. All of the students from our outlying communities must board in the dormitory at Choctaw Central to attend junior high and high school. There is no money to take them on field trips, provide films, or even to provide the staff ratio needed to adequately supervise and counsel them.

We would recommend the following for the Committee's consideration:

The development of school standards for day school and dormitory operations in consultation with tribes which take into account the need for English as a second language instruction, strong basic skills programs, enrichment programs which will provide the coping skills and information needed by our children to successfully understand and compete in the larger non-Indian society.

A distribution formula which provides for a minimal operational amount per child over and above personnel costs.

A realistic determination of personnel costs which meet the legal requirements of school Civil Service personnel.

Immediate relief in the form of raised per student allotments from $1,843.77 to $3,300 per student, plus weighted factors until such time as standards are published and implemented as mandated, and until conflicts with the federal employees union are legally resolved.

HEALTH CARE

Health services on the Choctaw reservation have improved significantly in the last ten years. During this time period, the Choctaw tribe has been increasingly involved in policy-making and management of the health care delivery system. The dollar volume of contracting with the Indian Health Service has been increased from $1.1 million in fiscal year 1978 to $2.6 million in fiscal year 1981. Unlike the high personnel cost in the Indian Health Service direct operations, only 55 percent of the total contracted budget is spent on personnel wages and salaries.

The 40-bed general hospital at Pearl River Community received full accreditation from the Joint Commission on Accreditation of Hospitals, the dental clinic is accredited by the American Dental Association, the Mental Health/Alcoholism/Substance Abuse Program is the only Native American program of this kind accredited by the State in which it is located.

Despite these improvements, the primary health need of the Choctaw people has not been fully met due to the moderate budget appropriated to the Indian Health Service. To stay within budget limits, many programs are being curtailed and services are being reduced. Now, it appears the budget is being reduced once again.

A major intention of Public Law 93-638 is being carried out on the Choctaw reservation. Plans are being made by the Tribal Council to assume total control of the remaining components of the Choctaw Health Center which are currently operated by the Indian Health Service. Several obstacles have arisen and hindered tribal administration. It has come to our attention that indirect costs appropriation is being held at fiscal year 1980 levels. In other words, indirect costs for newly contracted programs will have to be absorbed by existing program funds, which, unavoidably will result in a decrease in service. Tribal contracting means a decrease in services. Is this the intention of Public Law 91-638?

This is not only an extreme example of unfairness, but does not conform with the provisions of OMB Circular 74-7. Should IHS be expecting increased costs in this area, the budget for tribal management support should be increased so that the indirect costs rates established by the cognizant agencies can be honored.

Budgetary policies have partially thwarted tribal efforts to contract by preferential treatment for federally-administered IHS operations, over those administered by tribes. Contracted operations were funded at a program-in-place level. IHS direct operations were also base funded at the same levels, but in addition, received mandatory increases for employee pay raises. BIA passes these increases along to tribes, but IHS evidently does not. We believe tribal employees are as deserving of pay increases as IHS employees. So, in terms only of service levels, it appears advantageous for tribes not to contract. Our tribe, I might point out, has now contracted for just more than half of the IHS operations on the reservation; and will continue on this course.

SOCIAL SERVICES

We would support the concept of block grant funding for tribes in the area of social services, directly from the federal government rather than through the states.

A specific area in which tribes need a great deal of help is in implementation of the Indian Child Welfare Act of 1978, which is one of the most comprehensive and complex pieces of legislation impacting on tribal jurisdiction.

In the past, courts and social workers arbitrarily placed Indian children in homes under the broad assumption that adoptive parent capabilities to provide the physical necessities of life for the Indian child were primary factors to healthy development. Unfortunately, evidence proved that a child's identity with his relatives and maturation with culturally acclimated peers were, indeed, the most important factors to healthy child development. This law, then intends to halt past assumptions and assert new procedures to insure the best interests of the Indian child are considered.

The budget requests for Indian Child Welfare Act implementation, however, have fallen very, very short of actual need and have to some extent been funded by taking funds from other needed programs. We would recommend a substantial increase here to reflect the complexity of the jurisdictional issues involved and the special needs of Indian children.

ROADS

A vital part of development and maintenance of the reservation economic infrastructure are tribal road and highway systems administered by the Bureau of Indian Affairs. The number and condition of reservation roads is crucial to a reservation's potential for economic growth. Conversely, a reservation in which the potential for economic growth is beginning to be realized through the development and construction of major industries and businesses can see a halt brought to that progress and the possible failure of the development drive, without an adequate roads infrastructure.

For the past four or five years, the Congress has committed a large number of dollars to reservation road construction. It should be emphasized that these funds are crucial for tribes because, for some unknown reason, tribes do not receive any share of Federal Aid Highway funds. But the Bureau has been "playing games" with these funds for years—failing to commit construction contracts during the years for which they were appropriated, and, at times, using roads construction funds for programs having no connection with roads, such as safety management. In the face of actual roads construction under-expenditures, the Congress, understandably, has reduced the appropriations for roads.

The Bureau currently allocates roads funding among areas based on three weighted factors: the total Indian population in the area, the total number of trust acres in the area, and the number of miles of existing roads. These three factors are then balanced equally and the funds divided up. This formula is not conducive to reservation economic growth because it does not take into account the rate of current growth. Our reservation, for example, only receives funds for 1.25 miles of road construction per year! With 110 miles of existing roads, 80 of them needing pavement, this absurd nature of the situation is apparent. Currently, there are four highway bridges out of commission and there are no prospects for their replacement.

Though the roads program is extremely important to reservation development, it has continually received short shift from the Bureau administration. We would request that the Subcommittee raise the roads appropriation while at the same time implementing a mechanism to make the Bureau accountable in its roads operations.

EARLY CHILDHOOD EDUCATION

For the past 7 years, the tribal government has operated a pilot demonstration early childhood education program, funded by the Bureau, known as the Parent/Child Development Program, or PCDP. Not only has this program been a great success on our reservation, it has also pointed up the high level of need for preschool programs for children going on to Bureau schools that function as a catalyst in bringing together health, nurtition, education, psychological, and social services. Some of the measurable benefits of this program have been increased English language capabilities of both children and parents, a decrease in the incident of infectious early childhood diseases, and increased parent/child and parent/school interaction in a format which encourages a home focus on the needs of the individual child.

Coordinating BIA resources with those of the Head Start program, we have proven that children's test scores can increase greatly, and that early exposure to cognitive stimulation has a direct impact on performance in the BIA schools. We have also demonstrated the extent of preschool need on all reservations.

As such, we are requesting the Congress to increase the BIA school operations line and revise upward the Indian School Equalization Plans formula to fund adequate preschool programs at the reservation level nationwide.

ECONOMIC DEVELOPMENT

In order to eliminate, over the long run, the need for the essential services which I am urging the Committee to consider increasing or retaining at the same level, it will be necessary to actively encourage reservation economic development, as I described at the beginning of my presentation. In terms of the budget for the BIA, this means increased appropriations for the BIA Industrial and Business Development Office, and renewing funding for Indian Financing Act grants, for which zero dollars have been appropriated the last two years.

To develop, Indian people must have both control and financing. The federal role in this development process should be one of providing a favorable climate for economic development. A favorable economic development climate for Indian tribes will necessitate policy changes to allow tribal governments to establish Indian development processes, using Indian labor, Indian resources, and Indian creativity. Also, the government should also increase appropriations in other areas for capitalization of necessary community facilities, enterprise development, and other essential community support systems, and by providing alternative means of acquiring capital resources.

Self-determination cannot and will not be realized until the national Indian community is able to convert its resources, both human and natural, into marketable products.

In fact, during the campaign in September, President Reagan told Indian people that: "Economic self-sufficiency will be a goal of my Administration, both in Indian affairs and in the nation at large. It would work to make available financial, technological and management assistance which will enable tribal enterprises to develop their own projects for self-sufficiency. This will result in the reduction of income dependency and an increase in productive employment—which are the desires of Indian people."

Thank you for the opportunity to make this presentation.

PREPARED STATEMENT OF EDWARD DRIVINGHAWK, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

INDIAN PARTICIPATION IN THE PROPOSED BLOCK GRANT PROGRAM

Tribes are accustomed to dealing with the federal government on a direct basis; reservation boundaries often cross state lines; and because of their status as federally regulated entities tribes do not fare well in competition with the political components of states for funds. Designation of Indian tribes as separate sovereignties, dealing with the federal government on a government-to-government basis is consistent with a very long line of statutory authority, judicial precedent, and Executive policy.

II. JUDICIAL RECOGNITION OF TRIBAL SOVEREIGNTY

The special status of Indian tribes, as distinct sovereignties, is based on a line of judicial precedent which extends well back into the nineteenth century. In 1886, in the *Kagama* case,[1] the United States Supreme Court concluded that the federal government should assume jurisdiction over crimes committed by Indians on Indian reservations. The court reasoned that state sovereignty extends over organized bodies which are subordinates of the state, such as cities and counties, and that federal sovereignty controls such federally created subordinate governments as terroritiies and Indian reservatoins.[2] The Court noted that:

"[b]ecause of the local ill feeling, people of the States where they [Indians] are found are often their deadliest enemies."[3]

The Court's terminology may be a bit outdated, but the general principle is still true. There is competition between the subordinate bodies of the state and the Indian tribes within states for available funds and the tribes need their traditional federal protection to compete.

Although there have been many changes in the relationship between Indians and the States, the Supreme Court continues to recognize Indian tribes as organizations which are not a part of any state and not subject to state control. *Kagama* is cited today as basic law.[4]

Not only has the Court continued to recognize Indian tribal governments as independent of state governments, the Court has held that in some respects, Indian tribes have inherent sovereignty, separate and apart from federal sovereignty, saying:

"Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status." *United States* v. *Wheeler*, 435 U.S. 313, 323 (1978).

Finding the right to punish members to be such an inherent right, the Court ruled that tribal and federal prosecutions are brought by separate sovereigns. They are not "for the same offense" because each is for violation of the respective sovereigns' separate laws. Id. at 329–30.

The Indian tribe as a separate sovereign is not an empty phrase. In addition to the right to punish its own members for infringement of its laws (and the right implied thereby, to enact laws for the government of its members), the United States Supreme Court has recognized other inherent rights of self-government. Some of these were noted by the Court in its March 24, 1981, decision in *Montana* v. *United States*, slip op. at 18–19:

"[I]n addition to the power to punish tribal offenders, the Indian tribes retain their inherent power to determine tribal membership, to regulate domestic relations among members, and to prescribe rules of inheritance for members.

* * * * * * *

"To be sure, Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservations, even on non-Indian fee lands. A tribe may regulate, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements * * *. A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe."

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[1] *United States* v. *Kagama*, 118 U.S. 375.

[2] *Id.* at 379.

[3] *Id.* at 384.

[4] In *McClanahan* v. *Arizona State Tax Comm'n*, 411 U.S. 164, 173 (1973), the Court quotes the *Kagama* language dealing with Indian sovereignty as "still true as it was in the last century" despite the Indians' right to vote, use state courts and receive some state services. See also *United States* v. *Mazurie*, 419 U.S. 544, 557 (1975), quoted with approval, *United State* v. *Wheeler*, 435 U.S. 313, 323 (1978). "Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and their territory . . . ."

Along with defining the separate sovereignty of the Indian tribes, the Court has emphasized congressional intent to strengthen tribal self-government. To that end, over the objection that nondiscrimination statutes applied, the Court approved the Bureau of Indian Affairs' Indian employment preference which the Court found "reasonable and rationally designed to further Indian self-government."[5] The decision, thus, besides encouraging legislation designed to further Indian self-government, authorizes special treatment for Indians to achieve that end.

The many cases that have reached the United States Supreme Court and the Courts of Appeals in the recent past resulting from litigation between Indian tribes and the states, within whose boundaries the tribes are located, are indicative of what will happen if Congress does not treat Indian tribes as separate governmental entities authorized to receive a share of funds distributed as block grants directly from the federal government. Only through extensive litigation have the tribes maintained their tax exemption,[6] their right to tax,[7] their right to hunt and fish,[8] their right to govern their own people.[9] Distribution of the block grants by the states will involve a great deal of discretion on the part of state officials charged with the distribution. Indian tribes should not be put in the position of having to challenge such discretionary acts.

III. CONGRESSIONAL RECOGNITION OF TRIBAL GOVERNMENTAL AUTHORITY

Historically, congressional ratification of Indian treaties demonstrates the fact that tribes were considered as independent sovereignties exercising governmental authority over their members and their territory. This notion has carried through to modern statutory law and Congress, as well as the judiciary, has consistently recognized tribes as units of government having responsibility for a broad spectrum of reservation affairs.

The Indian Reorganization Act of June 18, 1934, 48 Stat. 984, 25 U.S.C. §§ 461 et seq. ("IRA"), clarified and confirmed the status of Indian tribes and established a mechanism by which they could "assume a greater degree of self- government, both politically and economically." *Morton* v. *Mancari*, 417 U.S. 535, 542 (1974). Tribal constitutions adopted under the IRA and approved by the Secretary of the Interior typically provide that the tribal governing body shall have broad governmental authority to promulgate and enforce ordinances regarding tribal property, wildlife, natural resources, health, safety, morals and general welfare.

The recognizition of tribal responsibility for exercising basic governmental functions has been reaffirmed by Congress in numerous later statutes, which provide that tribes are eligible for direct federal block grants and revenue-sharing. These laws include the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450; the Indian Financing Act of 1974, 25 U.S.C. § 1461; the Indian Health Care Improvement Act, 25 U.S.C. § 1601; the Tribally Controlled Community College Assistance Act of 1978, 25 U.S.C. § 1801 (Supp. III 1979); and the Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 (Supp. III 1979). In addition, a variety of general federal programs are implemented through local governments which are defined to include Indian tribes. For example, the Juvenile Delinquency Prevention and Control Act, 42 U.S.C. § 3891(2), provides that the term "public agency" means a duly elected political body, including an Indian tribe, while the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4841(2), provides for grants to "units of general local government" which are defined to embrace Indian tribes. Federal food stamp and food distribution programs provide assistance to enable tribes to qualify as the relevant "state agency" responsible for administering reservation food programs for Indians and non-Indians. 7 U.S.C. §§ 2012(n)(2), p. 2013(b), 2020(d) (Supp. III 1979). Tribal authority is indicated in the revelant definition of "reservation" as "the geographically defined area or areas over which a tribal organization . . . exercises governmental jurisdiction." 7 U.S.C. § 2012(j) (Supp. III 1979). Tribes also receive federal revenue-sharing funds under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. § 1227(b)(4).

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[5] *Morton* v. *Mancari*, 417 U.S. 535, 555 (1974).

[6] For example, *McClanahan* v. *Arizona State Tax Comm'n*, 411 U.S. 164 (1973); *Mescalero Tribe* v. *Jones*, 411 U.S. 145 (1973); *Moe* v. *Confederated Tribes*, 425 U.S. 463 (1976).

[7] For example, *Buster* v. *Wright*, 135 F. 947 (8th Cir. 1905), appeal dismissed, 203 U.S. 599 (1906).

[8] For example, *Washington* v. *Fishing Vessel Ass'n*, 443 U.S. 658 (1979).

[9] For example, *United States* v. *Wheeler*, 435 U.S. 313 (1978); *Santa Clara Pueblo* v. *Martinez*, 436 U.S. 49 (1978).

Congressional recognition of the role of Indian tribes as governing bodies extends beyond programs dealing with tribal members to general jurisdiction over many aspects of reservation life. Decisions regarding environmental protection are among the most important and basic functions of government, and federal environmental statutes have consistently recognized tribes as the governing bodies with responsibility for environmental decisions affecting reservations. For example, the Clean Air Act Amendments of 1977, 42 U.S.C. § 7470, 7474(c) (Supp. III 1979), provide that tribes determine how clean reservation air must be, and reservation lands "may be redesignated only by the appropriate Indian governing body." Congress also has recognized Indian tribal authority over reservation ecology in a variety of other statutes, including the Federal Water Pollution Control Act, 33 U.S.C. § 1362(4), the Solid Waste Disposal Act, 42 U.S.C. § 6903(13), and the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1232(g)(2) (Supp. III 1979).

IV. PRESIDENTIAL RECOGNITION OF TRIBES AS GOVERNMENTS

Every recent President has expressed strong commitment to the sovereignty and self-determination of Indian tribal governments. President Nixon's landmark, July 8, 1970 Message to Congress, 116 Cong. Rec. 23258, 6 Pres. Doc. 894, outlined the severe problems faced by American Indians and proposed solutions focused around measures designed to strengthen the tribal governmental authority over basic services and the delivery of federal programs. Presidents Ford and Carter reaffirmed federal support for tribal self-determination.

More recently, President Reagan eloquently reaffirmed the traditional position of the Executive Branch, stating that:

"I support tribal sovereignty and self-determination for federally recognized American Indian tribal governments.

* * * * * * *

"The traditional relationship between the United States and Indian governments is a 'government-to-government relationship'.

History tells us that the only effective way for Indian reservations, and Indian communities, to develop is with local Indian leadership. Bearing in mind the legal and historical background, tribal governments must play the primary role in Indian affairs. State and non-Indian local governments can at best play only a secondary role."

V. INCLUSION OF TRIBES IN PROPOSED REAGAN ADMINISTRATION BLOCK GRANT PROGRAM

There exists two alternatives concerning funding of tribes through the block grant process: (1) direct funding to Tribal Governments, or (2) utilization of the B.I.A. as a 51st jurisdiction.

States may regulate tribes only to the extent permitted by Congress,[10] and Congress has authorized relatively little state interference with tribal governments. Thus, tribes currently provide their members and others living in their communities with public services comparable to those provided by federal, state and municipal governments. Many tribal budgets total millions of dollars covering a broad range of governmental functions including police and fire protection, tribal court systems, public utilities, community services, including health care, education, housing, old age assistance, alcoholism and juvenile delinquency treatment programs, wildlife and natural resource management, and environmental programs. While not all tribes offer all of these services, tribal governments often provide the only available source of essential services such as fire protection, water, sewage and garbage disposal, for both Indians and non-Indians on reservations.

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[10] As the Supreme Court held in *McClanahan v. Arizona State Tax Comm'n*, supra, 411 U.S. at 168, "'(t)he policy of leaving Indians free from state jurisdiction and control is deeply rooted in the Nation's history.' *Rice v. Olson*, 324 U.S. 786, 789 (1945)."

Despite the commitment of Indian tribes to the provision of adequate services, many lack the necessary resources, and it is still true, as President Nixon said in his 1970 message to Congress:

"The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom."

Therefore, it is essential that the federal government fulfill its trust responsibility to American Indians by effectuating the national policy, enunciated by the Supreme Court, Congress and the Executive Branch, of supporting tribal governmental sovereignty through inclusion of Indian tribes in any proposed federal grant programs.

A recent study showed that tribal governments were eligible for direct access to nearly 70 percent of the 508 federal domestic assistance programs surveyed.[11] It is important that any new block grant programs continue to provide federal funds directly to tribes, rather than force tribes to seek such funds through the states whose own political subdivisions will be competing with tribes for scarce resources.

The existing mechanism for distributing funds under the Highway Safety Act [12] offers a useful example of how the federal government can provide funds directly to tribes rather than forcing tribes to request funds after they have been distributed to states. Basically, in allocating funds, the Bureau of Indian Affairs serves as a separate jurisdiction, with the relevant statute defining "State" and "Governor of a State" to include the Secretary of the Interior, and "political subdivision of a State" to include an Indian tribie.[13] The Bureau receives a fixed percentage of total funding for states, and then distributes the money pursuant to project agreements with tribes.

Treatment of the BIA as a distinct jurisdiction in allocating the Reagan Administration's block grant programs would enable more efficient and equitable distribution of funds to tribes through existing administrative channels rather than compelling states to set up new bureaucracies to decide the amount and manner of delivering funds to Indian reservations, many of which cross state and county boundaries.

PREPARED STATEMENT OF GOVERNOR TIMOTHY LOVE OF THE PENOBSCOT NATION

Mr. Chairman and Members of the Committee: Thank you for the opportunity to submit this statement on behalf of the Penobscot Nation. We are gravely concerned about the funding levels which have been enacted for fiscal year 1981 and which have been proposed for fiscal year 1982 for programs for the benefit of our Tribe.

The Penobscot Indian Nation was first contacted in the area which is now the State of Maine and the Province of New Brunswick by the earliest explorers of the North American continent. When the Revolutionary War broke out, General George Washington requested the assistance of the Penobscots and other tribes, and a treaty was negotiated pursuant to which the tribes were to assist in the Revolutionary War in return for protection of their lands by the United States and the provision of supplies in times of need. The treaty was never ratified by the United States, although the tribes played a crucial role in the Revolutionary War.

Despite requests from the Maine Indians, the federal government did not protect the tribes after the Revolutionary War. As a result, the Penobscot Nation lost the bulk of its aboriginal territory in treaties consummated in 1796 and 1818, when Maine was still a part of Massachusetts, and a sale to the State of Maine in 1833 resulted in the loss of four additional townships.

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[11] Final Report on Tribal Government of Task Force Two of the Congressionally established American Indian Policy Review Commission at 60–63, citing study of Statutory Barriers to Tribal Participation in Federal Domestic Assistance Programs, American Indian Law Center for Native American Technical Assistance Corporation.

[12] 23 U.S.C. § 401.

[13] 23 U.S.C. § 402(1).

The validity of these various transfers was not serious questioned until 1972, at which time the Governors of another Maine tribe, the Passamaquoddy, asked the United States to bring suit on behalf of their Tribe on the ground that the treaties transferring their aboriginal lands were invalid. The Tribe asserted that the treaties were invalid because the federal Nonintercourse Act prohibited transfers of land from Indians or Indian tribes without the approval of the United States.

The United States denied the Tribe's request to bring suit, reasoning that the Nonintercourse Act did not apply to nonrecognized tribes and that there was no trust relationship between the United States and the Maine Tribes. A declaratory judgment action was then brought by the Passamaquoddy Tribe against the Secretary of the Interior and the United States Attorney General. In 1972 the tribes won an order forcing the United States to file a protective action on their behalf. In 1975 the United States District Court for the State of Maine held that the Nonintercourse Act applies to all tribes, including those not federally-recognized, and that the Act creates a trust relationship between the United States and all such tribes. Later that year, the United States Court of Appeals for the First Circuit unanimously affirmed the decision, holding that the trust relationship created by the Act includes, at a minimum, an obligation to investigate and take such action as may be warranted under the circumstances when an alleged violation of the Nonintercourse Act is brought to the government's attention. As a result of these decisions, the Maine Indians were able to assert land claims previously barred by these invalid treaties.

In March of 1977 the process of settling the claims of the Maine Indians began. Negotiations between a work group appointed by President Carter to settle the claims and the tribes produced an agreement between the administration and the tribes, which was announced in February 1978. An agreement between the administration and the officials of the State of Maine was announced in November 1978. But it was not until March 1980 that an agreement supported by all parties was announced.

Following the March 1980 announcement, the agreement was approved by the Penobscot Nation and the other Maine Indians. The agreement was approved by the Maine legislature and signed into law by Maine Governor Joseph Brennan on April 2, 1980.

The proposal was introduced in the Senate on June 13, 1980 by Senators William S. Cohen and George J. Mitchell of Maine, and in the House of Representatives on August 1, 1980 by Congressman David F. Emery and Congresswoman Olympia J. Snowe of Maine. On October 10, 1980, the bill was enacted as Public Law No. 96-420.

A critical element in the settlement from the Tribes' point of view, in addition to the land and trust fund conveyed as compensation for what had been taken from us many years ago, was the following provision of Public Law No. 96-420:

"As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians . . . to the same extent and subject to the same eligibility criteria generally applicable to other Indians. . . . The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation." Section 6(1).

This was an important part of the settlement to us, because we already had learned that translating into action the courts' decision that the United States owed us a trust duty would be very difficult—particularly where financial assistance was concerned. Following the 1975 court decisions, the Bureau of Indian Affairs (BIA) had initiated a planning and budget process to establish budget appropriations for the Penobscot Nation. Because the State of Maine had provided assistance to the Penobscots for many years, the State was included in this process. A Supplemental Budget request for the Penobscot Nation for fiscal year 1977 was denied by the Office of Management and Budget largely because State of Maine officials indicated that the State was providing and would continue to provide such services as housing repairs, road maintenance, social services, and other assistance.

In fiscal year 1978 the BIA recommended funding for the Penobscot Nation of $4,195,500. The Office of Management and Budget recommended that Congress appropriate a total of $916,000 and $870,000 was actually appropriated. However, the $870,000 appropriated was further split between the Penobscot Nation and Passamaquoddy Tribe. (With the formulation of zero-based budgeting for the preparation of the fiscal year 1980 budget, the Nation was locked into the inadequate funding level set in fiscal year 1978, since that became the so-called "current" funding level and since the Tribe could not request more than a 50 percent increase over that level from the BIA.)

In 1979 the State of Maine eliminated from its fiscal year 1980 budget all funds previously appropriated for the Penobscots.[*] The termination of most—but not all—State funding was contemplated by the Settlement, in the context of the increased level of federal funding that was supposed to result from Section 6(i) of Public Law No. 96–420.

Since its needs were ignored for so many years by the United States, the Penobscot Nation needs assistance from the federal government in many areas: education; employment development and training; forestry; protection of rights of the Tribe and Tribal members and the relationship of the Tribe to the State of Maine and the federal government; real estate services; road maintenance; development of the Tribal Court; water resources; law and order services; wildlife and parks; social services; housing; road construction; and waste treatment plant expansion.

Nevertheless, the proposed fiscal year 1982 budget has provided no funds for education, road maintenance, water resources, road construction, expansion of the waste treatment plant, or the protection of rights of the Tribe and Tribal members and the relationship of the Tribe to the State of Maine and the federal government. In other program areas, under the proposed fiscal year 1982 budget, the Nation will receive only a fraction of the needed funds. Such a budgetary allocation does not meet the equitable treatment standard enacted as Section 6(i) of Public Law 96–420 and will severely hamper the Tribe's efforts to initiate and maintain momentum toward economic development and self-sufficiency.

An essential element in the Nation's progress will be proper schooling for Penobscot youth; to compete in today's society requires an adequate education. The Indian Island School Building is an old wood frame structure built in three sections. One section was built in 1900, another in 1925, and the most recent in 1968. The school had an enrollment of 67 students in the 1979–80 school year and 97 students in the 1980–81 school year. The school was designed to accommodate 50–55 students and presently fails to meet the Bureau of Indian Affairs and State of Maine minimum pupil space requirements, even at current enrollment levels, and the facilities are in desperate need of replacement.

As a result of the recent land claims settlement and new tribal development activities, the reservation population and the number of school-age youth is increasing. The projected school enrollment is 105 students for the 1981–82 school year and 114 students for the 1982–83 school year. This means that the Indian Island School enrollment will have grown by 170% in four years and the school will be forced to accommodate nearly two and one-half times the number of students for which it was designed. The present facilities, inadequate and overcrowded now, will soon be stretched beyond the breaking point. Funds must be provided to replace the school and to bring the Nation's educational facilities up to the level that would have been achieved earlier had the United States properly funded the Nation.

Just as increases in reservation population are putting an enormous strain on the Penobscot Nation's ability to provide educational and other services to its people, the Tribe also must shoulder the management responsibilities for a vastly expanded land base. As part of the Maine Indian Claims Settlement Act of 1980, Public Law No. 96–420, and the overall settlement of the claims made by the Penobscot Nation, the size of the Penobscot reservation will increase more than thirty-fold during the current 1981 fiscal year—from about 5,000 acres to nearly 155,000 acres.

There are three critical program areas that most directly impact the Tribe's ability to care for the land it owns or that is held in trust for it: forestry, real estate services and wildlife and parks.

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[*] An additional amount was later appropriated by the State of Maine to cover the period from July 1, 1980 to Jan. 31, 1981. However, those funds have been expended and no additional funds will be allocated by the State of Maine.

As noted previously, the Penobscot Nation has received some federal services since 1978. In fiscal year 1978 the Tribal land acreage was approximately 4,446 acres and the Tribe received a total of approximately $235,000 in the three critical land maintenance program areas from the federal government. The total amount provided to the Tribe in these areas in fiscal year 1979 was $280,600. In fiscal year 1980, $244,078 was provided, and $245,878 has been enacted for fiscal year 1981.

These sums provided for land management were too meager for adequate maintenance even in those years when additional funds were provided by the State of Maine and when the Nation's total land base was less that 5,000 acres.

For fiscal year 1982, the proposal budget provided for only $254,200 in these three areas, a decrease of approximately 9.4% from fiscal year 1979 levels, at a time when the land holdings have increased thirty-fold to nearly 155,000 acres. And the enacted budget levels for fiscal year 1981 do not take into account the fact that most of this increase in the Tribe's land base will take effect during 1981.

Not only is the proposed funding level for fiscal year 1982 lower than the 1979 funding, it is also lower than the average for the three prior years. Simply multiplying the funds provided in fiscal year 1979 for 4,446 acres by thirty would mean that it would take $8,418,000, not accounting for inflation, to fund programs in these three areas at the 1979 levels for the total acreage (nearly 155,000 acres). Nevertheless, the Bureau of Indian Affairs apparently expects the Penobscot Nation to care for the increased acreage with less money than was made available to the Nation in fiscal year 1979. There is no logical explanation for these proposed funding levels.

The Department of Interior, pursuant to Pub. L. No. 96-420, is purchasing almost all of the additional acres from the Dead River Company. The land is located in the midst of some of the most valuable and productive forest land in the United States. The land was well managed by the Dead River Company. With the funds enacted in fiscal year 1981 and proposed for fiscal year 1982, the Tribe will be unable to undertake necessary current programs of land management, disease and fire prevention, and resource protection, while training its own members in the skills. As a result, the value of this newly purchased land may be reduced along with the value of the surrounding land. And the Penobscot Nation will never have the opportunity to fully reclaim these lands and make them once again a part of the Penobscot Nation.

In the area of forestry alone the Penobscot Nation has requested $335,360 for fiscal year 1982. This request is a direct result of the expansion in land base and is required to pay the costs of the forest inventory, forest development, timber harvesting, timber stand improvement, timber sales, forest protection, training and use of Indian fire fighting crews, assistance to Indian loggers, technical assistance to individual woodlot owners, and the development of an overall forest management plan. These are essential needs.

In conjunction with the forestry needs, the fiscal year 1982 budget request of the Nation also includes $1,006,465 for real estate services. This amount is necessary to meet the requirements of the Maine Indian Claims Settlement Act of 1980. Nevertheless, the proposed budget for fiscal year 1982 is only $138,300, an increase of only $26,922 from its budget for fiscal year 1980, to service 150,000 more acres of land.

In the third critical area, wildlife and parks, the Nation has requested $300,125 to carry out its responsibilities under Tribal, State, and Federal laws and ordinances, and to develop and implement a Wildlife Management Plan. The patrol area will increase from a radius of 60 miles to a radius of 200 miles because of the acquisition of the additional 150,000 acres. Yet, the proposed budget for fiscal year 1982 only will increase the amount of funds for these services by $16,100 from the level provided by the budget for fiscal year 1980. A summary of the Penobscot Nation's fiscal year 1982 budget request is attached to this statement as Exhibit A.

The Penobscot Nation also has submitted to the BIA a supplemental budget request in these land management program areas for fiscal year 1981. This request was made because the Penobscot Nation has not been allocated additional funds to manage, survey, protect and operate additional acreage to be acquired in mid-April 1981. This supplemental budget request has not been granted. A summary of the Nation's additional needs for fiscal year 1981 is attached to this statement as Exhibit B.

If there are no significant increases in the budget for fiscal years 1981 and 1982, the Nation will be unable to protect its valuable land base and to serve tribal needs. The land acquisition portion of the land claims settlement was more than a mere transfer of property to the Penobscot Nation. It was intended to return to the Tribe a portion of its heritage and its geographical base. To now strip the Nation of its ability to develop and prosper on its own land and to regain the status of a self-sufficient community would be illogical and unfair. Such a result would violate the express provisions of the Maine Indians Claims Settlement Act (Pub. L. No. 96-420) and fly in the face of the spirit of the overall settlement of the land claims. We submit that the Maine Indians Claims Settlement Act requires an increase in the services provided to the Tribe.

Sections 6(i) and 9(c) of the Act require that the Penobscot Nation be provided annual assistance equivalent to that provided similarly situated recognized Tribes, without regard to the trust funds provided by the Maine Indian Claims Settlement Act. Public Law No. 96-420 was intended to redress past injustices and to insure fair and equal treatment in the future.

Case law also requires that all Indians be treated fairly. For example, when certain California Indians challenged the distribution of funds for Indian health services in *Rincon Band of Mission Indians* v. *Califano*, 464 F. Supp. 934 (N.D. Cal. 1980), the court—in finding for the Indians—held that the allocation criteria used by the Indian Health Service in distributing its funds was simply a bureaucratic charade with respect to all Indians in general and California Indians in particular; the IHS' reliance on the allocation formula could not justify the disproportionately low allocation of program resources to Indians residing in California. The court also found that the allocation system violated the California Indians' constitutional right to equal protection.

The decision of the District Court was upheld in the Ninth Circuit Court of Appeals in *Rincon Band of Mission Indians* v. *Harris*, 618 F. 2d 569 (1980). The Court of Appeals found, based on the Supreme Court decision in *Morton* v. *Ruiz*, 415 U.S. 199, 94 S. Ct. 1055, 39 L. Ed. 2d 270 (1974), that the Indian Health Service must apply a reasonable standard for allocation of funds and that the government has an overriding duty of fairness in dealing with Indians.

To meet the requirements of the Maine Indian Claims Settlement Act and the requirements set out by the courts in the *Rincon* and *Ruiz* cases, the government, in funding programs for the Penobscot Nation, must rely on a funding formula that is reasonable and that provides the Nation with services equivalent to those provided to other similarly situated tribes.

We submit that neither the Bureau of Indian Affairs nor the Department of Interior could have undertaken a comparative analysis to determine whether the Penobscot Nation is being funded as are other tribes—even other Eastern tribes—with an equal population or land base. If such an analysis had been properly made and the same standards applied to all tribes, the funding for the Penobscot Nation would be much higher, not lower, than previous funding levels, principally due to the Nation's land base. Furthermore, Eastern tribes generally do not receive the same treatment accorded the Western tribes. These injustices must be remedied.

Another sign of the government's misplaced priorities is the Bureau of Indian Affairs' proposal to establish an area office in Maine at an annual cost of $165,000. The Penobscot Nation is opposed to such an office and feels that it is unnecessary. The money spent to establish and run this office would be better spent in providing services to our people, especially in the replacement of our school, and not in supporting additional bureaucratic structures.

The government has a continuing and special responsibility to the Penobscot Nation. Yet, the fiscal year 1981 budget and proposed budget for fiscal year 1982 ignores that responsibility. It is wrong for one tribe not to be treated equally as compared to another tribe with equivalent population and land base, and it is wrong to allow precious resources to be wasted or destroyed. We can prevent the waste and destruction of our land only if there is an increase in the funds available to the Nation under the present fiscal year 1981 budget and the proposed budget for fiscal year 1982. The harm resulting from the loss of resources if such funds are not granted will affect the Penobscot Nation, the people of the State of Maine and the people of the United States.

It should be emphasized that the funding for the Penobscot Nation, like all other Indian tribes, is under right conferred by various treaties and agreements. The United States must live up to its obligations to the Penobscot Nation. Had it not been for the promise made by the United States to treat the Penobscot Nation the same as other tribes, the claims made by the Penobscot Nation might still be outstanding. For the United States not to live up to its obligations under the Maine Indian Claims Settlement Act will encourage other tribal land claims to be settled in the courts and not by agreement.

Because of the increase in our land area, and because of the requirements of Public Law No. 96–420, we must receive additional funding. We must be given sufficient funding to take care of our land, and we must be treated just as other tribes are treated. We have a right to such treatment.

EXHIBIT A

Program area	President's fiscal year 1982 budget	Penobscot fiscal year 1982 needs	Summary of requirements
1. Education—School	0	$3,013,125	Funds are needed to bring the school up to Bureau of Indian Affairs and State o Maine minimum pupil space requirements; landscaping; exterior maintenance; and to accommodate increased student population resulting from a general increase in the reservation population.
2. Employment development and training	$126,900	272,520	To provide classroom training, field experience and related training costs for 12 mo for 20 individuals in forest harvesting.
3. Forestry	62,000	335,360	Increased need is a direct result of an expanded land base of 150,000 acres due to the implementation of Public Law 96–420 (Maine Indian Claims Settlement Act of 1980). Funds to be used for: forest inventory, forest development, timber harvesting, timber stand improvement, timber sales, forest protection, training and use of Indian firefighting crews, assistance to Indian loggers, technical assistance to individual woodlot owners, and the development of an overall forest management plan.
4. Other rights protection	0	317,800	Funds needed to define the rights of the tribe and the tribal members, the relationship of the tribe to the State of Maine, and the relations of the tribe to the Federal Government resulting from the passage of Public Law 96–420. Funds also needed to eliminate potential lawsuits resulting from a lack of understanding of Public Law 96–420 and to establish a rights protection office to resolve various governmental, jurisdictional, and legal issues. Since 1968 the tribe has operated under a government without reference to any written document. Yet, Public Law 96–420 requires the organization of "an appropriate instrument in writing to govern the affairs of the nation."
5. Real estate services	138,300	1,006,465	Required for meeting the full basic requirements of Public Law 96–420 and consist of: Environmental examinations, assessments, statements and impact; probate cases; property rights cases; realty management counseling; surface and subsurface leases; land use plans; appraisals, acquisition/disposal; rights-of-way; lease compliance; estate distribution; title examination and reports; archaeological clearances; and membership review and lists compilations.
6. Road maintenance	0	1,634,394	Newly acquired land of 150,000 acres in 18 townships has 94.50 miles of road and 30 bridges and culverts. The reservation (existing lands of 4,877 acres) has 7 bridges and 13 culverts, and 2.75 miles of roads. The amount needed is for maintenance of roads, etc. on the reservation and on the newly acquired land.

EXHIBIT A—Continued

Program area	President's fiscal year 1982 budget	Penobscot fiscal year 1982 needs	Summary of requirements
7. Tribal court	$73,504	$108,000	Due to the increased land base, the tribal court must be further developed. Additional costs are required for leasing of a large court facility; the publishing of legal notices; leasing of a copier machine; technical assistance to establish and update tribal laws and ordinances; and to develop the relationship between the tribal courts and the State and Federal courts as required by Public Law 96-420.
8. Water resources	0	449,210	Funds to be used for an indepth analysis of and planning for use of the Penobscot River and lakes, ponds, rivers and streams on our land. The initial phase will include a complete hydrology in inventory and analysis of the chemical, biological, composition, and physical characteristics to provide a basis for a comprehensive conservation/utilization plan.
9. Law and order services	153,900	219,960	Because of increased population and greater land area, maintenance of law and order requires an increase in the number of law enforcement personnel.
10. Wildlife and parks	91,500	300,125	The increase in land base from approximately 5,000 acres to approximately 155,000 acres requires increases in personnel and equipment; the patrol radius will increase from 69 mi to 200 mi.
11. Social services	191,900	484,879	The service population has increased due to increased return migration and assumption by the Penobscot Nation of jurisdiction over matters of child custody. In addition, there have been increases in services provided.
12. Housing	35,300	132,977	Funds needed to bring 12 of 31 dwelling units presently below standard condition up to standard condition. In addition, funds are needed to prevent deterioration of, and to accomplish minor repairs on, other substandard units.
13. Road construction	0	1,000,000	Funds needed to extend new roads to and through phase III housing from Housing and Urban Development. Extension totals 2.5 mi of roads.
14. Treatment plant expansion	0	500,000	Due to population increases expected as a result of construction of additional housing, it is necessary to complete an expansion study of the existing sanitation system. In addition, implementation of recommended changes and improvements on existing individual components is required to alleviate any undue strain on equipment now in operation.

EXHIBIT B

Program area	Current fiscal year 1981 appropriations	Penobscot fiscal year 1981 supplemental request [1]	Summary of requirements
Forestry	$57,300	$230,919	1 time costs to allow the Department of Natural Resources to effectively manage the new land base and finance the remaining ongoing annual needs which are over and above the existing Public Law 93-638 funds.[2]
Real estate services	92,206	371,566	See above.
Wildlife and parks	77,200	311,116	Do.

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[1] For period of Apr. 1, 1981, Sept. 30, 1981.

[2] The forestry work plan includes: Forest inventories; development of comprehensive forest development plan; reforestation of 20 acres; timber stand improvement on 150 acres; harvesting of timber; administration of timber sales contracts; issuance of forest products permits; development of forest protection plans; detection and suppression of three (3) forest fires; pest control on 30 acres; organization and training of firefighting crews; and expansion of Indian employment in forestry activities.

ADDENDUM TO PREPARED STATEMENT OF GOVERNOR TIMOTHY LOVE OF THE PENOBSCOT NATION

Since the submission of my statement on March 31, 1981, the Bureau of Indian Affairs has increased the fiscal year 1981 program funding level for the Penobscot Nation in the areas of forestry, real estate services, and wildlife and parks. Attached hereto is a table showing the amount of the increases.

The increases are far less than requested. The additional funds only will support a portion of our land management efforts for fiscal year 1981. Public Law 96-420 clearly authorizes and contemplates a much larger federal contribution.

No change has occurred in the Bureau of Indian Affairs' proposed fiscal year 1982 program funding levels. The additional funding requested for fiscal year 1982 remains essential to the management of our land and to ensure the equal treatment of our tribe.

Program area	Original fiscal year 1981 budget	Additional funding requested	Additional funding granted	Current fiscal year 1981 budget
Forestry	$57,300	$730,910	$33,417	$90,717
Real estate services	92,200	371,966	40,723	132,923
Wildlife and parks	77,200	311,116	35,115	112,315

CORRESPONDENCE AND RELATED MATERIAL RECEIVED FOR THE RECORD

FORT BELKNAP COMMUNITY COUNCIL,
Harlem, Mont., March 20, 1981.

Senator JOHN MELCHER,
Dirksen Building,
Washington, D.C.

DEAR SENATOR MELCHER: This is to advise you and the others of the congressional delegation from the state of Montana of our concern about the Reagan administration budget cuts. It goes without saying, that the Reagan cuts will have an enormous economic and social impact upon the Indian community as well as the non-Indian communities.

The Tribal Government of the Fort Belknap Indian Community understands and appreciates the goals of the Reagan administration and their effort to balance the budget. The Fort Belknap Indian Community accepts their responsibility in tightening their budget.

However, by the same token there are necessary economic development goals and necessary services which must be provided to the people of this community. These economic development goals and necessary services to the people will be enormously affected by the drastic cuts proposed by the Reagan administration. Attached to this letter, are statistics and statements provided by the tribal government, its programs, and the Bureau of Indian Affairs emphasizing the impacts of the proposed budget cuts of the administration.

These statements and statistics reveal sharply the economic and social problems which will occur because of the lack of necessary services and unemployment. At the present time, the unemployment rate of the Fort Belknap Indian Reservation is at approximately 50 percent which is extremely severe when you consider the national unemployment is approximately 7 percent.

If the Reagan budget cuts become a reality, all of the other social and economic ills associated with the lack of financial resources will increase enormously upon the Fort Belknap Indian Reservation. This would include increased unemployment from the present 50 percent; an increase in the crime rate; an increase in the general unrest of the population; a decrease in educational opportunity; decreased economic development; an increase in the number of welfare recipients and other related social and economic ills that would occur from the lack of financial resources.

Furthermore, the Reagan budget cuts would stifle the natural resource development of the Fort Belknap Indian Reservation. This would include such energy resources as oil and gas, coal, geothermal, water, and other natural resource development which would stimulate the economic growth of the reservation and surrounding communities.

It is hoped that congress will attempt to preserve much needed programs which provide services to the needy and preserve other financial resources that Indian communities desperately need for economic development purposes. We ask you and the other members of the Montana congressional delegation to support the preservation of those needed resources for all people of the state of Montana.

FORT BELKNAP INDIAN COMMUNITY TRIBAL GOVERNMENT,
FRANKLIN R. PEREZ,
Secretary-Treasurer for the Tribal Chairman.

FORT BELKNAP INDIAN RESERVATION EFFECTS OF PROPOSED FISCAL YEAR BUDGET CUTS

Program	Number of personnel effected	Approximate budget loss	Services effected
(a) Tribal education:			
1. Most in need	[1] 2.25	$64,000	Human services network system.
2. Native American private sector initiative program (CETA—Title VII).	[1] 2.0 [2] 10.0	190,000	Private sector welding training program.
3. Consumer education program	[1] 2.0	36,000	Consumer education services and newsletter.
4. Johnson-O'Malley	[1] 4.0	[3] 29,250	Educational services for school districts No. 12 and 50 and Head Start.
5. Higher education program	[4] 2.0	[3] 90,438	Higher education scholarships.
6. Other educational services proposed through Department of Education cuts and block grants (i.e., impact aid, guaranteed student loans, title I, vocational education, etc.).	(5)	300,000	Elementary, secondary and postsecondary services.
7. Vocational education project	[1] 2	75,000	Vocational education training.
Subtotal	42	784,688	
(b) Indian action program		56,250	
1. Agriculture element	[1] 1		Impairment of agriculture development.
2. Carpentry	[1] 2		Impairment of carpentry construction enterprise.
Subtotal	3	56,250	
(c) Head Start:			
1. Handicap	[1] 1	7,600	Preschool handicap mainstream services.
2. USDA	0	12,000	Preschool balanced diet program.
Subtotal	1	19,600	
(d) Tribal health department:			
1. Alcoholism detoxification		10,437	Clientele balanced diet program.
2. Community health representatives.		2,700	Modified CHR services.
3. Staff training program	[1] 20	20,000	Indian self-determination erosion.
4. Elderly homes, 2 (CETA salaries, 4).		50,000	Elimination of 2 elderly homes.
Subtotal	20	83,137	
(e) Indian Health Service:			
1. Mental health	[6] 1	27,500	Deterioration of mental health services.
2. Hospital supplies		13,300	Insufficient Indian health care supplies.
3. Health education		11,800	Community prevention and patient care services.
4. Public health nursing		8,050	Outreach services and special patient clients, e.g., diabetes, prenatal, etc.
5. Travel training	[6] 62	5,200	Hospital accreditation threatened.
6. Community health travel	[6] 7		Deterioration of reservation sanitation inspection, dental, public health nursing and mental health outreach services.
Subtotal	70	65,850	

See footnotes at end of table.

FORT BELKNAP INDIAN RESERVATION EFFECTS OF PROPOSED FISCAL YEAR BUDGET CUTS—Continued

Program	Number of personnel effected	Approximate budget loss	Services effected
(f) Indian housing: 1. Indian housing 200 families requiring housing (subtotal).	[7] 32	$5,000,000	Total impact on Fort Belknap unknown. Projected 32 homes per year. $200,000,000 fiscal year 1981, $703,000,000 fiscal year 1982.
(g) Economic development:			
1. Administration	[1] 2	22,500	Elimination of administrative/planning services.
2. Grants/loans		186,000	Elimination of proposed irrigation unit for tribal farm.
		130,000	Elimination of proposed geothermo district cooling system.
Subtotal	2	338,500	
(h) Administration for Native Americans:			
1. Outreach	[1] 4	13,587	Reduction in outreach services: i.e., semiformational—transportation. Informational; i.e., public participation.
2. Food stamp program	[1] 1	18,000	75 participants.
3. Low-income energy assistance program.	(5)	(5)	Reduction in benefits possible 300–200 participants.
4. Weatherization		(5)	Reduction of weatherization services by 50 percent—25 participants.
Subtotal	5	31,587	
(i) Comprehensive Employment and Training Act (subtotal).	[1] 240	696,824	Elimination of the following tribal government operations: Recreation, water plant, senior citizens, tribal government support staff, youth school employment, tribal newsletter, day-care centers, employment and training administrative support staff, tribal maintenance services.
(j) Bureau of Indian Affairs:			
1. Agriculture extension	[3] 1	8,656	4-H extension services.
2. Community fire protection		500	Deterioration of existing health safety standards.
3. Direct employment	[2] 90	40,000	Elimination of qualified placement of Indian labor in private sector.
4. Adult vocational training	[2] 35	18,700	Vacation educational training.
5. Irrigation	[4] 20	150,000	Destroys and eliminates agriculture base of reservation.
6. Self-determination grants	[1] 2	18,900	Tribal government services devitalized.
7. Training and technical assistance.		15,000	Erosion of tribal government self-determination.
8. Indian Child Welfare Act	[1] 1	15,000	Erosion of the implementation of Indian Child Welfare Act.
Subtotal	149	266,830	
(k) Tribal government administration:			
1. Revolving credit	[1] 10	8,000,000	Self-sustainment and sufficiency of reservation population totaling 2,400 families.[9]
2. Land acquisition	[1] 4	3,000,000	Land purchase program which would increase land base for agricultural economic development.
3. Community Services Administration/Farmers Home Administration.	[1] 3	3,500,000	Elimination of agricultural economic development plan, 6,000 acres.
Subtotal	17	14,500,000	
Grand total	581	21,846,266	

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[1] FTE.
[2] Trainees.
[3] Cut (25 percent cut which is included in the BIA block grants).
[4] College students.
[5] Unknown.
[6] CSE.
[7] Homes.
[8] Participants.
[9] Does not include impact on non-Indian communities.

Note: The proposed Reagan administration cuts will drastically impact the economic base of the Fort Belknap Reservation, as well as the surrounding communities. The economical losses may be measured in terms of individual loss of jobs and individual loss of educational opportunities—losses vital to the economic health of the total area. What cannot be measured, however, is the human suffering that will inevitably result from these lost jobs and lost education opportunities—human suffering that will ultimately affect the social and cultural stability of the entire area, which includes the Indian and non-Indian communities.

FORT BELKNAP COMMUNITY COUNCIL,
Harlem, Mont., March 17, 1981.

To: Fort Belknap Community Council, FBED Project Coordinators, Reservation-wide Education Committee.
From: Robert J. Swan, Director, Fort Belknap Education Department.
Re: Reagan's Budget Cuts (Education)

Enclosed is a summary of Reagan's proposed FY-81 revisions and FY-82 budget for the Department of Eaucation. Because the complete document is 41 pages long, I have enclosed just the summary. These education cuts will affect the Fort Belknap Reservation and Fort Belknap Education Department as follows:

I. Impact on the Fort Belknap Education Department:

(a) *Vocational Education Project (VEP).*—Program is currently funded at $275,953. VEP had to compete for funding this year as we are funded as a discretionary program under the 1 percent set-a-side program for Indian tribes. We are currently projecting we will be refunded for a three year period with a proposed budget of $298,000. Realistically, if we are refunded we should receive funding for approximately $250,000 for FY-81. If funded for a three year project, we should be at level funding until October 1, 1984.

(b) *Curriculum Development Project (CDP).*—Program will enter into its second year of a third year program on July 1, 1981. The second year (7-1-81 to 6-30-82) budget was negotiated at $154,154 (increase of $25,000) for new period. Program should definitely be funded until June 30, 1983.

(c) *Adult Education Project (AEP).*—Program will enter into its second year of a third year program on July 1, 1981. The second year (7-1-81 to 6-30-82) proposed budget was submitted for $141,898 versus the current $122,092 budget. I expect the program to be funded at approximately $137,000. Program should definitely be funded until June 30, 1983.

(d) *Most In Need (MIN).*—This is a non-renewal contract funded by the NIMH for $64,395 (10-1-80 to 9-30-81). The first year of funding was for $51,179 (10-1-79 to 9-30-80). This program will definitely be phased out by October 1, 1981. Two program staff (Jon Contway and Wanda Allen) will be affected.

(e) *North Central Montana Talent Search Project (NCMTSP).*—Program will enter into second year of a two year program on July 1, 1981. The first year of funding was for $73,097 (9-1-80 to 6-30-81). The proposed budget for the second year is for $89,945 (7-1-81 to 6-30-82) with the budget probably to be negotiated at approximately $93,000. Program should definitely be funded until June 30, 1982.

(f) *Native American Private Sector Initiative Program (NAPSIP).*—Program will end on September 30, 1981. Currently funded at $190,000 from Department of Labor for period of 10-1-79 to 9-30-81. Proposal was resubmitted to CETA, Title VII. I don't think the program will receive funding because of the proposed elimination of the CETA Program.

(h) *Higher Education Project (HEP).*—HEP is funded at $322,500 per year and $39,900 in administrative costs. Depending upon tribal priorities, we should receive approximately the same for FY-82.

(i) *Johnson-O'Malley (JOM).*—JOM is funded at approximately $117,000. per year. Depending upon tribal priorities we should receive approximately the same for FY-82.

(j) *Consumer Education Project (CEP).*—CEP is funded at $26,260. for FY-81 (10-1-80 to 9-30-81). CEP will be completing its second year by October 1, 1981. There hasn't been a consumer education project funded in the nation for three years. However, CEP ranked high in the first reading—and if they score high enough in the second reading—CEP will be refunded at approximately $30,000. to $50,000.

(k) *Handicapped Proposals.*—The department submitted two handicapped proposals in the amount of over $750,000. for three year proposals. However, Handicapped Innovation and Development Programs are slated to take a 25 percent cut. I feel the proposals were well written and have an excellent chance of funding at approximately $475,000. for three years.

(l) *Summary.*—We will most likely lose 5 positions and 10 trainees by October 1, 1981. However, if the Handicapped proposals are funded and the CEP is funded (unlikely), we may gain five employees. Therefore, the FBED will be approximately the same for FY-82 as it is now.

8. Indirect Impact on Fort Belknap Education Department:

(a) The Guaranteed Student loans will affect about 15 percent of our college students.

(b) Parents and students must provide the initial funding of $750.00 for their college education. This will affect every student in college.

(c) BEOG—the Basic Educational Opportunity Grants name will change to PELL Grants; amount decreases; and middle class families eligibility will be limited. Every college student will be affected.

(d) We currently fund approximately 90 college students per year, with the change under (a), (b), and (c) above, we will probably only be able to fund approximately 75 students per year. This will amount to about a 20–25 percent cut.

(e) With the number of programs being transferred to State and local block grants, we will be ineligible to apply for approximately 20 discretionary type programs. Thus, this will limit us to new grants for the future and will limit growth in the Education Department.

(f) Schools will want more JOM money to supplement educational programs. However, JOM is limited for the coming years.

9. Impact on School District No. 12 and 50

(a) Impact Aid for "B" student will be eliminated in FY–82 ($226 Million Cut). This will definitely impact School District No. 12 by about a 30–50 percent cut in impact aid (commonly referred to as 874).

(b) Impact Aid for "A" students will decrease from $360 Million (FY–81) to $237. Million (FY–82). Funding will decrease by 10 percent ("A" students) and by $123. Million in FY–82. This will amount to approximately a 30 percent cut for School District No. 50 and another 15–20 percent for School District No. 12.

(c) All elementary and secondary programs will be consolidated into block grants (FY–82 and cut by 25 percent. If the layers of bureaucracy are cut out approximately 10 percent of educational services will be cut. However, local school boards will be able to program the money in a more efficient way and if this happens, services will be about the same for the 1982–83 school year.

(d) The Montana State Legislature should pass S610 in the near future and this state foundation program will raise the school budgets by 18 percent in 1982–83. Therefore, the state increases may offset the Federal decreases.

Overall, the future doesn't look good in education for the tribe. It could be worse, but if we fight hard enough we may be able to perserve approximately 80–90 percent of what we now have.

Enclosure:

FORT BELKNAP INDIAN ACTION PROGRAM

The Fort Belknap Indian Action Program for FY–81 had suffered a $52,433.00 cut from the previous years funding. It is now being proposed that another $56,250.00 cut be instituted for FY–82. This proposed cut along with the accelerated rate of inflation will greatly impair our operation. It is anticipated that we will be forced to lay off three members of our work force. According to the "Feasibility Analysis of the Fort Belknap Tribal Farm," dated February 20, 1978, at least 1,000 acres in crop would have to be produced in order to become self sustaining, but with the proposed cut in funds we will have to stay at the present acreage of 500 acres. The present cost at this time of new break outs from start to finish is approximately $50.00 per acre.

The carpentry element will also be greatly effected by cuts in funding at the present time. We would no longer be able to assist in building improvements with no cost to the Tribal Council or the people for labor.

FORT BELKNAP COMMUNITY COUNCIL,
Harlem, Mont., March 19, 1981.

Senator JOHN MELCHER,
Dirksen Building,
Washington, D.C.

DEAR SENATOR MELCHER: On behalf of the Fort Belknap Community, Fort Belknap, Montana; we wish to take this opportunity to express our concern regarding abolition of the Economic Development Administration and the Appalachian

Regional Commission programs. It is the belief of the Fort Belknap Community, that any reduction in appropriations for these programs (this program) will have severe adverse effects on the economic well-being of the members, businesses, and the present governing body of the Fort Belknap Community.

In the Fort Belknap Community, the programs of the Economic Development Administration, Appalachian Regional Commission have been vital in stimulating economic development which has resulted in creating our only water treatment plant and utilities department, in which all of the people who are served by these utilities depend for their physical well-being. Five hundred (500) people are served with twelve (12) being employed. With the growth rate at its present stage, this will never meet the adequate needs of the people.

A recent project of the Fort Belknap Community, assisted by E.D.A., A.R.C., is Project number 05-51-00707, Community Center Expansion. This project includes a swimming pool, a roller rink, and a weight room, all of which contribute greatly to the recreation needs of the young and the old, of Fort Belknap. Without these facilities, the crime rate for juveniles would be incredibly high and the older generation would have no activities to use.

The Community Center Expansion employs five (5) staff members and one (1) janitor and serves the total community which is approximately 3,000 members. It costs $21,000.00 to operate for one (1) year and $41,704.00 for the staff expenses, with total benefits going back into the project as they are understaffed and inadequately funded with today's cuts and prices.

Projects of this nature are increasing the economic mobility and improving the quality of life for the people of the Fort Belknap Community. As was stated in the Republican platform, "Attention to the quality of life in our rural Americans impart a special strength to the national character. It is our goal to assure that all rural citizens—whether they are farmers or not—have the same consideration in matters of economic development, in energy, credit and transportation availability, and in employment opportunities which are given to those who live and work in Rural America in the decade ahead, and our dedication to a prosperous and energetic rural America in part and parcel of our commitment to make America great again."

We are particularly distressed that the Congress will not be receiving programs such as these individually and will instead be forced to vote on all cuts as though each is equally valuable to this area.

We know that E.D.A. and A.R.C. works in the following areas:

Chippewa Indian Tribe, Leach Lake Indian Reservation, Cass Lake, Mont.
Three Affiliated Tribes of the Fort Berthold Indian Reservation, New Town, N. Dak.
Mesquaki Indian Tribe, Tama, Iowa.
Blackfeet Indian Tribe, Blackfeet Indian Reservation Browning, Mont.
Lower Brule Sioux Indian Tribe, Lower Brule Sioux Indian Reservation, Lower Brule, S. Dak.
Red Cliff Bank of Chippewa Indians, Red Cliff Indian Reservation, Bayfield, Wisc.
Standing Rock Sioux Indian Tribe, Standing Rock Reservation, Fort Yates, N. Dak.
Yankton Sioux Indian Reservation, Wagner, S. Dak.
Cheyenne River Sioux Indian Reservation, Eagle Butte, S. Dak.
Weminuche Ute Indian Tribe, Ute Mountain Indian Reservation, Tocuaoc, Colo.
Sisseton-Wahpeton Sioux Tribe, Lake Treverse Reservation Sisseton, S. Dak.
Mississippi Band of Chippewa Indians, Fon Du Lac Indian Reservation, Cloquet, Mont.
Winnebago Reservation, Winnebago, Nebr.
Red Lake Band of Chippewas, Bemidji, Minn.
Northern Cheyenne Reservation, Lame Deer, Mont.
Assiniboine and Sioux Indian Tribes, Fort Peck Indian Reservation, Poplar, Mont.
Chippewa Indian Tribe, White Earth Reservation, White Earth, Minn.
Sakoogon Chippewa Indian Tribe, Sakoogon Chippewa Community, Crandon, Wis.
Rocky Boy Reservation, Chippewa Cree Tribe, Box Elder, Mont.
Turtle Mountain Indian Tribe, Turtle Mountain Reservation, Belcourt, N. Dak.

Oneida Indian Tribe, Oneida Reservation, Oneida, Wis.
Shoshone and Arapahoe Tribes, Wind River Reservation, Fort Washakie, Wyo.
Crow Indian Reservation, Crow Agency, Mont.
Crow Creek Sioux Reservation, Fort Thompson, S. Dak.

We are counting on your help.

MARCH 20, 1981.

Hon. ORRIN G. HATCH,
Chairman, Senate Labor and Human Resources Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HATCH: The budget cuts that are being proposed by the President Reagan Budget Committee will have a drastic effect on the lives of our Head Start children and their families.

First, eight of the Head Start families are participants of the CETA program. Also, two Head Start staff receive their training through CETA. The CETA program gives our Head Start parents hope for a better future for their children. This provides a model for the children to copy, to be able to see their parents go to work. The modeling effect is long lasting. The children grow up looking forward and planning for the time they will be able to go to work.

Second, the Handicap funds if cut will have a never ending effect on the lives of the Handicapped child and their families, which will continue for the rest of their lives. Head Start mainstreams the Handicapped children and provides them with added individual programs and follow-up, plus counseling of the parents.

Third, Head Start provides for educational activities, field trips, swimming lessons, plane rides, which are intellectually enriching for the low-income children, which they would not receive otherwise. By providing for these additional activities through Johnson O'Malley funds, the children from low income families are able to be successful in elementary and high school.

Johnson O'Malley also provides funds for a Health Home/School Co-ordinator, whose duties are to see to it that the Head Start children receive a complete physical as well as dental, vision, and hearing screening. Also, to follow-up where there is a need. The Health Home/School Co-ordinator serves as a liaison between Head Start and the home. JOM also provides funds for a playground area, where the children can experience gross motor activities.

Fourth, the U.S.D.A. Breakfast, Lunch, and Supplement program provides our program with the total amount for food. If this program is cut, we would not be able to provide for a well balanced food program for our low income children. A well balanced diet is extremely important to children of three and four. They are growing physically as well as developing intellectually. According to our Head Start policy, Nutrition is one of the major components.

As you can see, Senator Hatch, the ill effects of the budget cuts will be ongoing and will have a Domino effect on the Head Start families and their children. In the past the Indian families have been without a sense of dignity and pride, due to not being able to provide adequately for their families.

Now that this opportunity has finally arrived, don't let it be taken away. Because once parents lose their pride or dignity it is difficult to restore. The parents usually resort to alcohol, crime, child abuse, wife beating, and suffer mental depression. If you have ever seen parents at this low level of their lives, it is not only pathetic, but it is a sin to let it happen if it could be prevented.

I thank you for your time and I hope and pray that you will do everything that you can to prevent the budget cuts.

Sincerely,

CAROLINE YELLOW ROBE,
Head Start Director,
Fort Belknap Agency.

FORT BELKNAP HEAD START PROGRAM

Head Start receives the following supplements from the CETA, Handicap, U.S.D.A., Johnson O'Malley.

CETA: Staff, $64,000.
CETA: Head Start Families, $64,000.
JOM: $15,436.
Handicap: $7,600.

FORT BELKNAP COMMUNITY COUNCIL,
TRIBAL HEALTH DEPARTMENT,
Harlem, Mont., March 20, 1981.

To: Fort Belknap Indian Community Council.
From: John Spence, Tribal Health Planner.
Subject: Impact of Budget Cuts on the Tribal Health Department and IHS Service Unit.

A. This is a summary of the effects on the Tribal Health Department which will result if President Reagan's proposed budget cuts are passed without Congressional alteration:

1. *Alcoholism/Detoxification Program.*—$10,437 in client food costs was withheld from fiscal year 1981 (10/1/80 to 9/30/81) by a Billings Area Office, BIA directive. This category of expenditures was always covered in the years since 1975 as a reimbursement from BIA through our IHS contract for alcoholism services.

With expected budget cuts to BIA, the Area Office is more firm than ever in refusing to reimburse all the Montana Tribal Alcoholism/Detoxification Programs for this necessary cost.

2. *Community Health Representative (CHR) Program.*—$2,700 is the amount of the cut directed by IHS/Billings Area Office which the program must absorb between now and the end of fiscal year 1981 (9/30/81). For fiscal year 1982, beginning 10/1/81, budget cuts in the CHR Program are unknown.

3. *Elderly Homes.*—The proposed plans on reopening of the Elderly Homes in the Agency and Hays/Lodge Pole areas must be scrapped. With the Senior Citizens Center being drastically reduced in services due to budget cuts in the CETA Program (which funds most of the Senior Citizens staff), there appears to be no likelihood of Tribal Health reopening these rest homes.

4. *Family Planning.*—No definite word regarding cuts, although we anticipate a reduction in travel costs which will greatly reduce confidential home visits and outreach services in prenatal care and counseling.

5. *Staff Training Program.*—Elimination of all training funds from the Billings Area Office/IHS for 1981. Training Coordinator, Elinor Sullivan, received this information by telephone today. We have no idea what our prospects are for fiscal year 1982. With no trainign or staff development, implementation of tribal Self-Determination in health care intended by Public Law 93–638 and Public Law 94–637 is seriously eroded.

6. *Utilities Division.*—Loss of three (3) Water Treatment and Sanitation employees possible with the proposed elimination of CETA Title VII PSE (Public Service Employment), Pete Bishop, Davis Long-Knife, and Doug Snell would be affected. Tribal Utilities Division does not generate enough revenue to be self-supporting.

Therefore, we have continued to receive extension waivers from CETA and we have only been able to supplement each of these employees at $1.65/hour.

7. *Womens, Infants, and Children (W.I.C.) Program.*—No definite word on budget cuts, but we expect a reduction in this important nutritional service to the many low income mothers and children on the reservation.

B. Below is a summary of effects on Fort Belknap people who require health care from our local IHS Service Unit based on information received today, March 19: (figures calculated on percentage reductions).

(1) *Mental Health.*—$27,500 budget cut in fiscal year 1981, despite the recommendations for increased services to Indians documented in the 1977 report of the President's Commission on Mental Health.

(2) *Hospital Supplies.*—$13,300 budget cut in fiscal year 1981. Our aging hospital, built in 1932, was denied accreditation by JCAH (Joint Commission on Accreditation of Hospitals) in 1975 and it has been an uphill fight to maintain accreditation for this ancient facility every year since then. This reduction in health care to reservation residents is appalling.

(3) *Health Education.*—$11,800 budget cut in fiscal year 1981. Current community prevention services and patient care instructions will be greatly reduced.

(4) *Public Health Nursing.*—$8,050 budget cut in fiscal year 1981. Many outreach services and special patient clinics will be negatively effected.

(5) *Travel and Training.*—$5,200 budget cut in fiscal year 1981. For both accreditation and improved patient care, local Service Unit and Tribal Health staff must receive periodic training. A reduction in this area is very shortsighted.

(6) *Community Health Travel.*—40 percent reduction in fiscal year 1981. With the Public Health Nurses and Environmental Health staff effected, vital direct patient care in the field and sanitation inspection services will be reduced.

Regarding the provision of improved health care for Fort Belknap people, things haven't looked this bad since the early 1960's. We still have the highest mortality rate among the seven reservations in Montana and apparently President Reagan will not help us improve on the statistic.

MARVIN HEALTH, THD,
Director, Tennyson Doney, SUD.

FORT BELKNAP INDIAN COMMUNITY,
EMPLOYMENT & TRAINING ADMINISTRATION,
Harlem, Mont., March 20, 1981.

Senator COHEN,
Senate Select Committee on Indian Affairs,
Washington, D.C.

DEAR SENATOR: I am writing this in regards to the impact and very serious connotations the proposed cuts under the Reagan Administration would have on the Fort Belknap Indian Reservation both socially and economically, also the rumored plan of phasing out all Indian and Native American Programs.

Prior to the C.E.T.A. Programs in 1973, we had an unemployment rate that fluctuated between 75–80 percent. Upon employing eligible participants with available C.E.T.A. slots, this figure went down to 47 percent. In 1981 the unemployment rate is 57 percent even with C.E.T.A., this is due to a large number of families returning to the Reservation into new homes under the H.U.D. Program. Upon termination of the existing C.E.T.A. Programs we can forecast accurately that the unemployment rate will jump to 85–90 percent.

Fiscal year 1981 we have approximately 240 people who benefit from C.E.T.A. directly, this consists of our Titles and Youth Programs. With the 33 percent cut approximately 1,800 people will be affected either directly or indirectly.

At present we have under the C.E.T.A. Programs key people in all areas of the Tribal Government. Without these positions the Fort Belknap Tribal Government would be under-staffed. Therefore, would be unable to function properly and maintain the operation of the Tribal business.

We are heavily dependent upon C.E.T.A. PSE Slots for our water, sewage disposals and sanitary landfills, which if were not functioning and manned would create a dire health hazard. Also if C.E.T.A. were terminated the Senior Citizen Centers, Recreation Department, local Reservation Paper and Food Programs would have to phase-out, these programs are heavily dependent on C.E.T.A. Slots.

At this time we would like to have the Reagan Administration review the Indian Reservations and realize some of the needs that exist, as we are totally undeveloped in every respect.

In the event the Reagan Administration would consider C.E.T.A. or a similar program/programs we would like to remain under the National DINAP Office rather then the State due to foreseeable problems with the States and Reservations. What we would like to see is monies channeled into private industry on the Reservation, so we won't in future years be so heavily dependent upon Federal Funding for our livelihood.

Respectfully,

WINONA GIVES,
Director, Employment & Training.

FORT BELKNAP ADMINISTRATION
FOR NATIVE AMERICANS,
Harlem, Mont.

Memorandum To: Kass Irvine, Acting Adm. Mgr.
From: William H. Walls, ANA Director.
Subject: Reagan's budget cuts effect on ANA.

The Reagan budget cuts will not affect the A.N.A. General Community funds or S.E.D.S. I've contacted Washington, D.C. and they informed me that the funds will continue to be available as long as Fort Belknap justifies the needs for the funds. Programs that are administered by the A.N.A. Office will be affected though. At this time, I cannot render any definite effects but offer the following possibilities:

Administration for Native Americans.—Effects on the A.N.A. Program are a result of a policy change by the National Office in regards to the approach of achieving Tribal economic and social self-sufficiency. The result will be a loss of four (4) Outreach Staff persons by June 30, 1981. This will result in a drastic reduction of services available to three Senior Citizens Centers; affecting transportation; provision of meals, home assistance, site supervision and community outreach services in all three population areas. About 350–400 elderly and community members will be directly affected.

Food stamp outrearch program.—The Reagan cuts on the Food Stamp Program may result in a loss of one (1) Full-time Food Stamp Outreach Worker and one 1 part-time Food Stamp Outreach Worker. This will result in the loss of 18,000 in program funds and a complete loss of non-informational and informational Food Stamp Outrearch services to approximately 75 participants of the Program. Efforts to identify and include other potentially eligible families would be reduced by 90 percent.

Other programs.—Other programs administered by ANA like the Weatherization Program, Low Income Energy Assistance Program, will be effected by the basis on reallocation by Congress. A general reduction of available funds is expected. If the Community Services Administration is dissolved then it would effect our Community Food and Nutrition Program, Crisis Intervention Program, Gardening Projects, with the major problem being the increased bureaucracy in competing for funds through block grants; which would result in funds reduction across the board.

With the CETA Program being cut we stand to lose more than 50 percent of our staff for Senior Citizens Programs, Recreation and central office staff. A loss in salaries and wages reaching $85,000 and resulting in program closures and inadequate staffing in A.N.A., Recreation, and 4 Senior Citizen Centers.

Cuts in the Food Programs may result in the loss of the Summer Food Program.

Summary.—The Reagan Administration will affect all our programs eventually with the reduction of services being an inevitable result. Reauthorization and appropriations will also effect our programs but the extent cannot be measured at this time.

NATIVE AMERICAN RIGHTS FUND,
Washington, D.C., March 25, 1981.

PETER TAYLOR,
General Counsel, Senate Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

DEAR PETE: Here are additional questions for the agencies and OMB that Bill Perry and I feel should be answered by someone in officialdom. Also, here are the OMB letter I mentioned in Monday's hearing and a letter from CILS on the situation I touched on regarding the untermination of Indians in California. I feel both should be made a part of the hearing record.

Thanks,

SUZAN SHOWN HARJO,
Legislative Liaison.

I. BIA

A. In the past, the BIA has depended upon the Fish & Wildlife Service's capability to fulfill its trust fisheries services obligations to Indian fishing tribes. With the proposed reductions in the FWS, has BIA assessed the impact of FWS reductions in terms of dollars and personnel; has BIA allocated funds internally to develop its own capability in fisheries and, if so, where will BIA capability be housed, spent and proportioned; and has BIA begun and completed an assessment of the funding needs of fishing tribes whose hatcheries and other fishery-related needs would be affected by proposed cuts in NOAA, EDA and other agencies? What are the budgetary implications for tribes eligible to participate in the Northwest Salmon Enhancement Act of 1980?

B. How has the BIA calculated its budget for fiscal year 1982 in regard to tribes it does not serve at present but will serve in the near future as a result of legal actions concerning Indians in California and administrative actions concerning Indians in California and administrative actions concerning Indians now participating in the Federal Acknowledgement Project?

C. Mr. Cannon testified that up to 400 BIA positions would be eliminated under the revised fiscal year 1982 budget proposal. If tribes choose not to operate the ten "consolidated tribal governmental programs," would any BIA positions be cut? Are all proposed BIA personnel cuts tied to tribal takeover of programs? Has any consideration been given to elimination or reduction of Area Office staff positions? If so, how many of the reductions at the Area level would translate into personnel additions at the Agency or Central Office level?

D. Mr. Canan's prepared testimony listed certain program increases for fiscal year 1982. Are these increases as compared with the current fiscal year, the budget sent to Congress in January 1981 or some other figure?

D. Natural resources development and trust responsibilities are listed as areas of increased funds. What is the increase, if any, in funds budgeted to provide support for ongoing and future water rights litigation?

E. Please explain, in detail, the cuts proposed in the "forestry initiative," and the reason why forestry is also listed as an item to receive increased funding as part of natural resources development. Are these proposed cuts in any way related to the Maine Indian Land Claims Settlement Act of 1980?

F. Mr. Canan stated that tribes were involved in developing the BIA budget proposal. Which tribes support the elimination of CETA funding and other jobs programs?

II. IHS

A. How much money would be made available to tribes for alcoholism projects under your proposed budget? How does this compare with money made available this year under NIAA, and with the former Administration's proposed budget?

B. What is the cost of providing water and sewer service to newly constructed HUD housing units?

III. HUD

A. Describe in detail what was meant by your testimony that 15,000 units of housing are "in the pipeline."

B. Where will these 15,000 units be built? When?

C. Will the funds already made available for these 15,000 units account sufficiently for post-1982 cost overruns and inflation? How?

D. Your testimony suggested that, since no agency has requested money for water and sewer for new housing, tribes might use consolidated tribal government "block grant" money for this purpose. Will tribal block grant money be required to cover other costs of new HUD housing?

IV. OMB

A. Could you describe the manner in which OMB and the federal agencies coordinated the aspects of the Indian-related budget proposals for fiscal year 1982 in those instances where the budgets of two or more agencies have impact on the same category of service delivery or entitlement to tribes, using the Indian housing and jobs and training programs as lead examples?

B. Could you describe the manner in which OMB and the federal agencies coordinated the Indian-related budgets in the general areas of health, education, economic development, resource management and general services?

C. What is the formula that will be used for the block grants in the BIA system? What is the formula that will be used for the Indian inclusion in general block grants from agencies other than BIA? Will any other agencies' funds become a part of the BIA block grant system? If no formulas have been fixed to date, when do you anticipate finalization? What has been or will be the process for tribal consultation and participation in the setting of block grant formulas? If this process has not yet begun, when might it?

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. ROGERS C. B. MORTON,
Secretary, Department of Interior,
Washington, D.C.

DEAR MR. SECRETARY: As you know, you are required by Section 16 of Public Law 73-383 to advise Indian tribes organizing under this section of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

Notwithstanding the provisions of OMB Circular A–10 requiring that such estimates not be released in advance of the submission of the President's budget to the Congress, I am asking you to proceed to effect compliance with Public Law 73–383 by providing such estimates. This exception to the provisions of Circular A–10 shall, however, only apply where estimates pertain to programs specifically for federally recognized Indian tribes, and then only data disaggregated below the national level shall be released.

As the statute originally intended, your Department should assume responsibility for coordinating this effort and for collecting necessary data directly from appropriate Federal agencies in order to comply with Public Law 73–383.

With best regards.

Sincerely,

Roy L. Ash,
Director.

ANALYSIS AND EXPLANATION OF THE WHEELER-HOWARD INDIAN ACT

The Wheeler-Howard Bill became law on June 18, 1934, when it was signed by the President, after having passed both houses of Congress.

There follows a detailed explanation of the provisions of the Wheeler-Howard Act.

SEC. 1. PROHIBITION AGAINST FUTURE ALLOTMENT

This section provides that no Indian land which is now unallotted shall hereafter be allotted. The section does not disturb or affect in any way existing Indian allotments. Neither does it deprive Indians of the right to secure "fourth section allotments" upon the public domain. The purpose of this section is simply to preserve tribal lands for the use of the Indian tribes and to prevent these lands from being broken up and turned over to individual Indians who may sell the land, or lose it in other ways, to non-Indians.

SEC. 2. CONTINUANCE OF RESTRICTIONS ON ALIENATION

This section provides that land which is now held by Indians under trust patents or under any restriction on alienation shall continue to be held in that manner, unless Congress enacts legislation to the contrary. This section changes all existing laws which provide that the trust period on Indian lands or other restrictions on alienation shall, regardless of the consent of the Indians, expire upon a definite date, usually 25 years after the original allotment. This section does not change existing laws or regulations regarding Indian applications for fee patents. The policy of issuing such fee patents in exceptional cases, laid down in Order 402, will continue in force.

In accordance with Section 13 of this Act, the Indians of Oklahoma are excluded from the benefits of Section 2.

SEC. 3. RESTORATION OF SURPLUS LAND

This section gives the Secretary the right to turn back to an Indian tribe any surplus lands of the reservation that have not yet been sold or otherwise disposed of under existing laws. The surplus lands affected by this section are lands not allotted to Indians, which have been opened for sale or entry as public domain lands. This section does not disturb the rights of those Indians or whites who have already acquired or entered upon such lands. Furthermore, this section does not apply to any "Reclamation Project" heretofore authorized. A Reclamation Project, under this section, is an area of land which has been selected from a reservation, improved by irrigation, and then opened for settlement to the general public, subject to assessments upon each irrigable acre for the cost of developing the land.

A final proviso to this section deals with the lands of the Papago Indians. This proviso is explained in a separate statement.

SEC. 4. TRANSFER OF RESTRICTED LAND

This section sets forth the three permissible ways in which restricted Indian lands may be transferred and prohibits any transfers of such lands except as so authorized.

First, restricted land may be transferred by an Indian owner, with the approval of the Secretary, to an Indian tribe or corporation, by sale or by will or in any other way.

Second, restricted Indian land may be inherited by members of an Indian tribe or corporation or any other heirs, Indian or non-Indian, of the deceased. Any will disposing of restricted allotted lands must be approved by the Secretary of the Interior, as is the case at present. The Secretary may approve such will only if the beneficiaries are either members of the same tribe or corporation as the deceased or heirs of such deceased. In the absence of a will, restricted allotted lands will descend, as is now the case, in accordance with State laws in force at the time. On those unallotted reservations where rights of occupancy to tribal land are now inherited by tribal custom or department regulation, this section does not change the existing situation.

Third, restricted Indian lands may, with the approval of the Secretary of the Interior, be exchanged for other lands of equal value, whether such lands are owned by Indians or by non-Indians. Title to the lands thus acquired through exchange is to be taken in the name of the United States in trust for an Indian tribe or for individual Indians, and such land will be exempt from State and local taxation. (See last paragraph of Sec. 5.) Such exchanges may be authorized only when they do not interfere with the policy of consolidating suitable areas of land under Indian ownership. Thus an Indian whose land is surrounded by other Indians' lands will not be allowed to exchange lands with a non-Indian.

The foregoing statement of the methods by which restricted Indian land may be transferred has no application to unrestricted land owned by individual Indians in fee.

This section applies to heirship lands, as well as to lands owned by living allottees. Under the provisions of this section, heirship lands which are not partitioned among the heirs of the deceased can be sold only to the local Indian tribe or corporation.

Under this section, the same restrictions that apply to the transfer of restricted Indian lands are applied to the transfer of shares in the assets of any Indian tribe or corporation, whenever such shares shall be issued by any organized tribe or corporation.

This section does not apply to the Indians of Oklahoma or to the Klamath Indians.

SEC. 5. LAND ACQUISITION

This section authorizes the Secretary of the Interior to acquire lands for Indians in need. Under this section, the Secretary may acquire lands, water rights, or simply surface rights to lands. He may acquire lands within or without existing reservations. He may acquire white owned or Indian owned lands, fee patented or restricted lands, lands of living Indians or lands in heirship status.

It is the primary purpose of the Interior Department, under the authority granted by this section, to purchase white-owned lands interspersed in Indian reservations or adjacent to such reservations, so as to block out suitable grazing, timber, or farm areas for Indian use. Such lands will be acquired through outright purchase, whenever Federal appropriations shall be made available, and also by exchange, wherever a non-Indian, who owns land within an area that is predominantly Indian-owned, is willing to exchange such land for land of equal value that is now occupied by an Indian, who would prefer to move into the area that is being consolidated under Indian ownership.

A second purpose of the Department under this bill will be to acquire lands outside of existing Indian reservations, upon which Indians who are now landless, and are not affiliated with any tribe that still has land, may settle.

A proviso to the second paragraph of this section excludes the Navajo Indians of Arizona and New Mexico from the benefits of any money that may be appropriated in the future under this section, if the two Navajo boundary bills become law. The Arizona bill has already been enacted. The New Mexico bill has not yet been enacted. Until the latter bill is enacted, the proviso against land purchases for Navajo Indians is without force.

This section authorizes the appropriation of not to exceed two million dollars each year for the purchase of lands. This Act, however, does not actually appropriate any money. Appropriations of Federal funds are customarily made by a "general appropriations bill," which covers all the various Government services. Such a bill will be passed at the next session of Congress, which begins in January, 1935.

Title to lands acquired under this Act will be taken in the name of the United States, and held in trust either for an Indian tribe or for individual Indians. It will be the policy of the Interior Department to hold such title in trust for Indian tribes, and to assign individuals possessory rights in such lands as long as the lands are actually occupied and improved. Where an Indian surrenders land which he now owns, in exchange for white owned land, such white owned land may be taken by the United States in trust for the individual Indian who has made the exchange.

SEC. 6. CONSERVATION OF INDIAN RESOURCES

This section requires the Secretary of the Interior to see that Indian forestry units are lumbered in such a way as to assure a continued stand of timber. Likewise the Secretary is directed to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, to protect such range units against overgrazing, to prevent soil erosion, and to ensure full utilization of such range units. In carrying out these purposes, the Secretary is given authority to issue proper rules and regulations.

SEC. 7. PROCLAMATION OF RESERVATIONS

Under this section, land acquired by the Secretary of the Interior for the use of Indians may be added to an existing reservation or else set apart as a new Indian reservation. If added to an existing reservation, the land is to be used for the benefit of Indians entitled to reside on that reservation. If set aside as a new reservation, such lands will be open to settlement by landless Indians.

This section does not apply to the Indians of Oklahoma.

SEC. 8. EXEMPTION OF PUBLIC DOMAIN LANDS

This section provides that Indian holdings of allotments or homesteads upon the public domain shall not be affected by this Act, unless they fall within the boundaries of some Indian reservation, now existing or established hereafter.

SEC. 9. EXPENSES OF ORGANIZATION

This section authorizes the future appropriation of not to exceed $250,000 each year to be spent at the order of the Secretary of the Interior for the expenses of organizing Indian chartered corporations, tribal councils, and other forms of organization which are contemplated by this Act.

As with the appropriation for the purchase of land, no money is made available by this Act. The actual appropriation of money for the named purposes must wait until the next session of Congress.

Among the contemplated organization expenses are: The expenses of tribal meetings and conventions for the preparation and discussion of constitutions, charters and by-laws; the traveling expenses of Indians and of Government officials in connection with such conventions; the expense of employing persons to assist Indian tribes that request such assistance in the drawing up of constitutions, charters and by-laws; and the payment of stenographic, clerical and printing expenses.

SEC. 10. INDIAN LOAN FUND

This section authorizes the appropriation of $10,000,000 as an Indian Loan Fund. Such money is to be loaned, at the direction of the Secretary of the Interior, to Indian corporations that may be chartered under Section 17 of this Act. Such corporations may either use the sums loaned to them for corporate purposes, such as the purchase of heirship lands and the development of tribal lands and resources, or loan such funds to individual members of the tribe for private economic purposes. The Secretary of the Interior is authorized to prescribe rules and regulations covering such matters as repayment, interest rates, and security. Money paid back into the Indian Loan Fund is to be used for further loans. The Secretary is to report each year to Congress concerning all transactions made under this section.

SEC. 11. INDIAN EDUCATIONAL LOANS

This section authorizes the future appropriation of not to exceed $250,000 every year for educational loans to Indians. When such money shall be actually appropriated by Congress, it will be made available by the Secretary of the Interior to Indians who desire to attend high schools, colleges, vocational schools or trade schools. Loans made from this fund will be reimbursable. The Commissioner of Indian Affairs is directed to regulate the manner of repayment of these loans.

Of the sum of $250,000 which may be appropriated each year for such loans, not more than $50,000 is to be loaned to Indians attending high school or college. The rest is to be loaned to Indians attending trade schools and vocational schools, such as schools of agriculture, nursing, medicine, education, mining, or business. It will be the purpose of the Indian Office to make these loan funds primarily available to Indian students who have shown marked ability, so as to fit such students for the service of their people in all the essential vocations of a healthy community.

SEC. 12. INDIAN PREFERENCE IN EMPLOYMENT

This section requires that qualified Indians are to have preference in appointments to vacancies in existing positions in the Indian Service as vacancies occur. It directs the Secretary of the Interior, without regard to Civil Service regulations, to establish standards of eligibility for Indians for all positions maintained now and hereafter by the Indian Office. This calls for a review and revision of the requirements for present positions, and also for advance planning for positions which may hereafter develop in connection with local self-government by Indian tribal organizations.

SEC. 13. APPLICATION OF ACT

This section provides that none of the provisions of this Act shall apply outside of the United States, except that certain provisions shall apply to Alaska, namely, Sec. 9 (appropriation for expenses of organization), 10 (appropriation for loans to Indian corporations), 11 (appropriation for educational loans), 12 (Indian preference in appointments), and 16 (tribal organization).

This section excludes all the Indians of Oklahoma from certain important provisions of the Act, namely, Sec. 2 (extending trust periods), 4 (restricting alienation), 7 (providing for enlargement of old reservations and establishment of new reservations), 16 (tribal organization), 17 (tribal incorporation), and 18 (tribal referendum).

This section also provides that Section 4 (restricting alienation) shall not apply to the Indians of the Klamath Reservation in Oregon.

SEC. 14. CONTINUANCE OF SIOUX BENEFITS

This section applies only to certain Sioux Indians. It provides that Sioux Indians who would have been entitled to allotments, but for the fact that this Act abolishes further allotments, may henceforth receive the Sioux benefits.

SEC. 15. CLAIMS, SUITS, AND JUDGMENTS

This section provides that no claims or suits of Indian tribes against the United States shall be in any way impaired or prejudiced by anything in this Act. It also provides that Federal expenditures made under this Act shall not be deducted from any future judgment which any Indian tribe may secure against the United States on any claim.

SEC. 16. TRIBAL ORGANIZATION

Under this section, any Indian tribe that so desires may organize and establish a constitution and by-laws for the management of its own local affairs.

Such constitution and by-laws become effective when ratified by a majority of all the adult members of the tribe, or the adult Indians residing on the reservation, at a special election. It will be the duty of the Secretary of the Interior to call such a special election when any responsible group of Indians has prepared and submitted to him a proposed constitution and by-laws which do not violate any Federal Law, and are fair to all the Indians concerned. When such a special election has been called, all Indians who are members of the tribe, or residents on the reservation if the constitution is proposed for the entire reservation, will be entitled to vote upon the acceptance of the constitution. Such constitution can be adopted only by a majority of all such Indians (not merely a majority of those voting). If a tribe or reservation adopts the constitution and by-laws in this manner, such constitution and by-laws may thereafter be amended or entirely revoked only by the same process.

The powers which may be exercised by an Indian tribe or tribal council included all powers which may be exercised by such tribe or tribal council at the present time, and also include the right to employ legal counsel, (subject to the approval of the Secretary of the Interior with respect to the choice of counsel and the fixing of fees), the right to exercise a veto power over any disposition of tribal funds or other assets, the right to negotiate with Federal, State and local governments, and the right to be advised of all appropriation estimates affecting the tribe, before such estimates are submitted to the Bureau of Budget and Congress.

The following Indian groups are entitled to take advantage of this section: Any Indian tribe, band, or pueblo in the United States (outside of Oklahoma) or Alaska, and also any group of Indians who reside on the same reservation, whether they are members of the same tribe or not.

SEC. 17. TRIBAL INCORPORATION

This section authorizes any Indian tribe (outside of Oklahoma) to obtain a charter of incorporation, issued by the Secretary of the Interior. A petition for such a charter should be signed by one-third of the adult Indians of the tribe or reservation for which a charter is sought. Such a charter of incorporation becomes effective when ratified by a majority vote of the adult Indians living on the reservation. When once ratified, such a charter may not be revoked by the Secretary of the Interior. Only future legislation of Congress can revoke such a charter.

A charter of incorporation may convey to any tribe the right to engage in business, to obtain loans from the Indian Loan Fund authorized by Section 10 of this Act, to acquire property, to issue certificates of corporate interest to the members of the corporation who transfer land to the corporation, and to do all other incidental things necessary to the conduct of corporate business. Among these incidental powers may be mentioned the power to elect or appoint officers and employees of the corporation, to promulgate and amend by-laws, to pay out dividends, etc. No Indian corporation, however, may sell or mortgage any land at all within the reservation nor may it lease such land for a period exceeding ten years.

Any trade which desires a corporate charter may request the assistance of officials of the Interior Department in preparing such a charter, or may, if it so chooses, consult private attorneys or advisers in the preparation of such a charter.

SEC. 18. REFERENDUM ON APPLICATION OF ACT

This section provides that the Indians of any reservation may, by a vote of a majority of the adult Indians on the reservation, exclude themselves from the operation of the entire Act. It is the duty of the Secretary of the Interior to call a referendum election for this purpose upon each reservation, at some time before June 18, 1935. Such an election must be held by secret ballot, and 30 days' notice of the election must be given to the Indians of the reservation.

SEC. 19. DEFINITIONS

This section defines certain terms, namely, "Indian", "tribe", and "adult", as these terms are used in various provisions of the Act.

The term "indian" is to be construed as including three classes of persons:

(a) All persons of Indian descent who are members of a recognized tribe, whether or not residing on an Indian reservation and regardless of the degree of blood.

(b) All persons who are descendants of any such members of recognized Indian tribes and were residing within an Indian reservation on June 1, 1934, regardless of degree of blood.

(c) Persons of one-half or more Indian blood, whether or not affiliated with any recognized tribe, and whether or not they have ever resided on an Indian reservation.

This section further provides that Eskimos and other aboriginal people of Alaska may be considered Indians, under those provisions of the Act which apply to Alaska.

The term "tribe" is defined to include any Indian tribe, organized band, or pueblo, and also to include any group of Indians residing on a single reservation, whether or not they have been previously organized as a single tribe. Wherever practicable, the Interior Department will treat the Indians of a single reservation as a single tribe.

This section finally specifies that the term "adult" is used to refer to persons who have reached the age of 21 years.

JOHN COLLIER,
Commissioner of Indian Affairs.

CALIFORNIA INDIAN LEGAL SERVICES,
Oakland, Calif., March 23, 1981.

Re Effect of Indian Program Budget Cuts on Terminated California Indians

SUZANNE HARJO,
Native American Rights Fund,
Washington, D.C.

DEAR SUZANNE: Historically, California Indians have been on either the cutting or trailing edges of federal Indian policies and programs; consequently, they have seldom enjoyed the full benefits of the systematic implementation of these policies and programs when mature.

For example, although California was the first state in which the federal government created Indian reservations from federal lands, without any validly ratified treaties. Enlightened though this may have seemed, it was necessitated by an earlier refusal by the Senate to ratify 18 treaties which had been negotiated with California Tribes, under which these Tribes would have reserved some 8 million acres of land as Reservations.

The California Rancheria system provides another illustration of how California Indians have suffered by reason of the timing of federal initiatives to deal with their needs and problems. The Rancheria system was created in response to widespread reports of starvation, disease and destitution among the few surviving non-Reservation Indians of California. As a solution to the problems reported to it, the Department of the Interior proposed the creation of numerous small Rancherias on which landless or homeless California Indians could live, raise food and otherwise sustain themselves free from non-Indian depredations.

The key to the success of the Rancheria system was to be the acquisition of small parcels of land with adequate water for domestic and limited agricultural purposes. Under the authority of the Act of June 21, 1906, 34 Stat. 325, which appropriated $100,000 for the purchase of lands for California Indians, and the appropriations measures which appropriated funds for the purpose for nearly 30 years thereafter, the B.I.A. acquired 81 Rancherias for the various Indian groups which were in need of small land bases.

Few of the Rancherias created or acquired under these various Acts were as satisfactory for their intended purposes as they could have been; however, the B.I.A. tended to purchase lands in the immediate vicinity of needy Indian communities, and this proximity was of greater importance than suitability. It is interesting to note that this land acquisition activity was proceeding at the height of the allotment era: perhaps this is why the B.I.A. did not do a better job of ensuring that the acquired lands would be adequate to meet the reasonable needs of the Indians for whom the lands were acquired, or of providing the basic services needed by the people.

In 1934–35, the B.I.A. conducted elections on most California Reservations and Rancheria. The "Indian New Deal" brought some of the first significant improvements in Rancheria living conditions. However, less than ten years after passage of the I.R.A., the Sacramento office of the B.I.A. already was planning for the end of the Rancheria system. The modern concept of termination was conceived in California, where the relatively small size of the Indian population and land base seemed to offer the best prospects for successful assimilation into the mainstream of non-Indian society.

Whether by design or otherwise, the B.I.A. seems to have done everything possible to induce the Indians of California's Rancherias and Reservations to support and accept termination. Basically, this was accomplished by the wholesale slashing of B.I.A. program funds subsequent to 1948, so that Indian people could perceive that there was no benefit to them in continuing either the trust status of their lands or their individual status as Indians.

In 1958, Congress passed the California Rancheria Act of August 18, 1958, Public Law 85-671, 72 Stat. 619. Under this statute, Indians of 41 California Rancherias were to be given the opportunity to receive fee title to Rancheria lands, and direly-needed improvements to Rancheria water supplies and irrigation systems, roads and other facilities, as well as to participate in vocational training and education programs. The Act authorized the appropriation of $50[illegible]235 to carry out the purposes of the Act.

In exchange for receiving these benefits under the Rancheria Act, the trust status of Rancheria lands and the Indian status of Rancheria residents were to be terminated. However, § 3 of the Act explicitly states that the provision of services and benefits is to occur prior to conveyance of fee title to Rancheria lands.

The Rancheria Act as implemented bore little resemblance to the Act as passed, in part because rather than seeking the actual appropriation of the $509,235 authorized under the Act, the B.I.A. undertook to implement the Act using only the funds normally budget for the Sacramento Area—funds which had been inadequate to provide even minimal levels of service for the preceding decade! The Indian people of California were never told about the difference between the authorization of an appropriation and the actual appropriation of funds, and thus many believed that the $509,235 authorized in the Rancheria Act would be available to fund necessary improvements.

Without adequate funds, and under pressure to speed the Act's implementation, the B.I.A. neither provided nor offered to provide many of the benefits or and improvements acutely needed. Rather, as described under oath by former Sacramento Area Director Leonard Hill, the B.I.A. "sold" Rancheria Indians on the idea that only those Rancherias accepting termination would have any chance of receiving benefits, but that there were not many benefits available.

As a result of both the B.I.A.'s selling job, and a decade of frustration and privation in large measure attributable to the B.I.A., most Rancherias adopted, and the Secretary of the Interior approved Rancheria distribution plans which provided virtually no significant benefits to the Indians of the various Rancherias. Without awaiting provision of the water assistance requested under the plans, the Secretary of the Interior proceeded to distribute deeds to Rancheria lands, the lands became taxable and the distributees and dependent members of their families lost their status as Indians under federal law.

Some Rancherias were distributed—and hence deemed terminated—as early as 1960. The process continued over the next decade, although there was a pause after the Act was amended in 1964 (Act of August 11, 1964 Public Law 88-419 78 Stat. 390) to transfer responsibility for domestic water and sanitation systems to the Department of H.E.W.

To chronicle in detail the suffering of the Indian people as the direct and proximate result of the flawed implementation of the Rancheria Act would take volumes, and should and probably will be the subject of separate hearings. In summary, however, it is fair to say that as a result of the manner in which the Rancheria Act was implemented, approximately 800 distributees and perhaps 3,000 of their descendants have been denied basic B.I.A. and I.H.S. services for between 10 and 20 years, and thus have endured grossly substandard housing, water and sanitation facilities, unhealthy living conditions and extreme poverty. Moreover, much of the land distributed to the Indians of the terminated Rancherias has passed out of Indian owernship, thus threatening the continued integrity of Rancheria communities. Many parcels have been auctioned for unpaid taxes, or to satisfy creditors' claims or welfare liens. Many parcels have been sold because the Indian owners need funds on which to survive. Many parcels have been useless, because the manner in which the B.I.A. divided the land renders the land unbuildable under applicable County land use regulations (former Area Director Hill has testified under oath that local zoning and other ordinances were not a factor in the B.I.A.'s consideration of how Rancheria lands were to be divided).

In short, Rancheria Indians gave up almost everything, and received almost nothing. Moreover, no sooner had they done so but the era of self-determination dawned under the Nixon administration, and the services which California Indians had despaired of ever seeing began to flow into California.

At about this same time, California Indian Legal Services (C.I.L.S.), a program first funded under O.E.O. and C.S.A., and now a grantee of the Legal Services Corporation, began the decade-long legal battle to obtain some measure of justice for the victims of termination in California. In several early district court actions, C.I.L.S. was successful in obtaining settlements under which the United States agreed to provide or to pay for provision of basic water and sanitation improvements.

Finally, in *Duncan* v. *Andrus*, Nos. C-71-1572 WWS and C-71-1713 WWS, filed in the Northern District of California in 1971, C.I.L.S. won a judgment that the federal government's failure to provide adequate water, sanitation and other necessary improvements *prior* to distributing Rancheria assets invalidated the termination of the Indian status of the distributees[*], and entitled distributees to elect to reconvey their lands to trust status.

Since the 1977 judgment in *Duncan* v. *Andrus*, which the United States did not appeal, C.I.L.S. has obtained similar judgments or rulings in three other district court cases (*Smith* v. *U.S.A.*, No. C-74-1016-WTS, N.D. Calif.; *Daniels* v. *Hopland Nokomis Ass'n., et al.*, No. C-74-1061—WTS, N.D. Calif., and *Upper Lake Pomo Ass'n* v. *Andrus*, No. C-75-0181-SW, N.D. Calif.). The U.S. Court of Claims also has agreed with these cases that termination does not lawfully occur "pursuant to" the Rancheria Act unless preceded by provision of adequate water and sanitation facilities. *Duncan* v. *U.S.A.*, 597 F. 2d 1337 (remanded by the Supreme Court for further consideration of whether unlawful termination creates a cause of action cognizable under the Tucker Act, 28 U.S.C. §§ 1346, 1491).

These cases are being followed by others. In *Table Bluff Band of Indians* v. *Watt*, No. C-75-2525-WTS, the court presently has under submission plaintiffs' motion for summary judgment on all issues except the amount of money damages. *San Joaquin or Big Sandy Band* v. *Watt*, No. C-80-3787-MPH (N.D. Calif.) is set for trial in October, 1981. *Table Mountain Rancheria* v. *Watt*, No. C-80-4505-MHP will be set for trial later in 1981.

In *Hardwick, et al.*, v. *U.S.A.*, No. C-79-1910-SW, a class action involving the lands and people of 34 Rancherias, plaintiffs are preparing to move for summary judgment to unterminate all California distributees. In *Billy* v. *U.S.A.* (an intervention action in *Smith* v. *U.S.A.*, supra), the parties are working out an agreed statement of facts in preparation for a trial.

As successful as C.I.L.S. has been in obtaining judicial relief from some of the evils of wrongful termination in California, it is clear that litigation cannot accomplish everything necessary to enhance the physical quality of Rancheria life to minimally decent standards. For example, there appears to be no way that litigation will result in the return of significant amounts of land to Indian ownership.

There is no way litigation can result in acquisition of additional trust lands. We may find that litigation cannot result in provision of necessary rehabilitative services and improvements.

At best, litigation is an uncertain route for the terminated people of California. It is agonizingly slow, and incredibly expensive, and it cannot do everything necessary. Thus, we are convinced that some sort of legislative solution to our clients' problems would be preferable to endless, piecemeal litigation.

Whether for one Rancheria or for all of them, such legislation would have four basic objectives:

1. Restoration of individual Indian status of all Rancheria people and Tribal status of Rancheria governing bodies, with concomitant eligibility for future federal services;
2. Rehabilitative services, benefits and improvements to bring Rancheria water, sanitation, housing and other facilities up to current standards, and to enable Rancheria residents to participate in the programs from which they have been excluded;

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[*] In *Knight* v. *Kleppe*, No. C-74-0005-WTS, the Northern District of California invalidated the termination of those persons listed as dependents of distributees, on the ground that the procedure by which dependents were identified and listed deprive them of due process.

3. Restoration of Indian country and Reservation status to Rancheria lands, and enabling their lands to federal status to be held in trust as specified by the grantors;

4. Authorization and appropriation of special funds to accomplish these rehabilitative objectives without diminishing the funds available to other Tribes as part of the ongoing federal-Tribal relationship.

In these times of austerity and budget reduction, suggestions of new programs or budget times may seem foolhardy; however, we are convinced that the United States has at least a moral—if not a legal—obligation to do so. Indeed, if we are entirely successful in our lawsuits, we may end up costing the Treasury as much as if the funds were appropriated in the first place.

At a time when the federal government is spending millions of dollars to feed, clothe and house hundreds of thousands of refugees from the Caribbean, and millions more to shore up the government of El Salvador, it would be outrageous to cosign yet another generation of California Rancheria Indians to the degredation of poverty, disease and cultural disintegration on the specious ground that we cannot afford to provide these people with decent homes, adequate quantities of potable water, indoor plumbing and a chance to learn or train to be more productive citizens.

Thank you for bringing this to the attention of the Senate Select Committee on Indian Affairs.

Very truly yours,

California Indian Legal Services,
George Forman.

INDIAN LEGAL SERVICES—THE ONLY ALTERNATIVE

"Indians constitute less than one-half of one percent of the U.S. population and are widely disbursed throughout the country. Hence, they are not a particularly effective political force. Therefore, historically Indians have depended greatly on their unique legal status to protect them from erosion of their rights by non-Indian private interests and state and local government.

"To help defend their rights, Indians themselves have established tribal interest law firms, such as the Native American Rights Fund, founded in 1970. These organizations supplement the work of the Justice Department, which Indians assert has inadequately enforced and protected their rights."

If the legal services program is wiped out, Indian country will lose 185 attorneys and 80 paralegals and tribal court advocates, as well as the assistance of 13 attorneys of the Indian Law Support Center of the Native American Rights Fund.

Indian legal services programs have contributed significantly to the protection of Indian treaty, property and human rights, areas in which the United States has promised to carry out its federal fiduciary responsibilities. Demise of Indian legal services would have a deleterious effect on virtually all federally-recognized tribes, as well as the unrecognized and terminated tribes now participating in the federal acknowledgment project under 24 C.F.R. Part 54.

The Congress has clearly and forcefully expressed the policy of self-determination for tribal governments and an enhanced quality of life for American Indian and Alaska Native people.

President Reagan and Interior Secretary Watt have echoed this policy to Native Americans and to the Congress, expressing support for tribal, treaty and self-determination rights for recognized tribes.

During his campaign, President Reagan assured Indian tribal leadership that he opposed federal abrogation of treaties, as well as termination of the unique relationship between the federal and tribal governments. He also pledged his support for the development of tribal court systems.

Removal of the Indian legal services program support would prove pernicious for tribal courts and tribal rights.

Elimination of Indian legal services would be totally inconsistent with the bipartisan policy of the past decade.

Total funding of legal services to Indian people is $6,261,811—less than 2 percent of the Legal Services Corporation budget.

In reporting to Congress, as required by Sec. 1007(h) of the Legal Services Corporation Act, the Corporation advised that funding decreases would be felt most deeply by programs where:

—the clients reside predominantly in isolated, rural settings on reservations, where there are special access barriers to services, and where a private bar is almost non-existent;

—a large percentage of the client population has English as its second language or is non-English speaking, and where cultural distinctiveness must be a consideration in services delivery;

—the complex nature of Indian law issues requires expertise and specialization in Indian law; and

—the legal services programs are the primary source of defender services in tribal courts.

The Indian legal services program is a successful and cost-effective manifestation of United States Indian policy, demonstrating that our system of justice works and that even the poorest people of the Nation have access to the highest courts of the land. Especially in this tight-budget era when tribal economies can ill-afford to be further depressed, the Indian legal services program deserves full consideration.

The Administration has asked Congress to cut off legal aid to the poor, proposing to abolish the only avenue to justice for poor Native American tribes and people.

President Reagan, despite his commitment to cut the budget but spare the truly needy, has proposed a zero-funding level for the Legal Services Corporation, which funds 29 American Indian and Alaska Native legal assistance programs in 22 states.

Critics of the Indian legal services program maintain that Indian people have gained too much through the American system of justice in recent years, and that Indian clients and cases are inventions of legal services attorneys. For this reason, detractors would curtail funding, limit Indian access to the courts and penalize Indian people for asserting and securing their rights.

It is true that the Indian legal services program has been successful in providing representation to Indian people for the assertion of longstanding claims. It is also true that many cases have been decided in the Indians' favor. It is not true that Indian people and claims are invented by attorneys.

The history and condition of Indian people are well-documented and understood worldwide. It is only recently that Indian people have had adequate and available representation of their views in the courts. Indian people can and do win cases. Whether or not a case is a landmark—and the vast majority of these legal services cases are not—the courts, not attorneys, decide the outcome.

Elimination of the Indian legal services program would leave poor tribes and Indian individuals without any realistic alternative.

Private Representation.—Because Indian law proceeds upon a unique set of legal principles, there are few practitioners within the private bar who are equipped to serve Indian people. It is highly unlikely that this specialty would be developed on a pro bono or limited payment basis.

Voucher System.—Because Indian clients reside mainly in isolated areas far from private attorneys and have limited transportation and communication means, a voucher system is not a viable alternative to the existing field system.

Block Grant System.—Because states are major competitors for Indian resources, state administration of block grants would raise serious questions concerning the objectivity of state officials in providing funds for the assertion of Indian rights. A block grant approach would place attorneys in the position of competing with clients for limited funds that are badly needed in every area of Indian life.

Indian people are the poorest of the poor and can least afford to be without representation or to absorb the cost of representation.

As noted by the Commission on Security and Cooperation in Europe in its November 1979 Status Report, Fulfilling Our Promises: The United States and the Helsinki Final Act:

"Native Americans, on the average, have the lowest per capita income, the highest unemployment rate, the lowest level of educational attainment, the shortest lives, the worst health and housing conditions and the highest suicide rate in the United States.

"The poverty among Indian families is nearly three times greater than the rate for non-Indian families, and Native people collectively rank at the bottom of virtually every social and economic statistical indicator.

[H.R. 2506, 97th Cong., 1st Sess.]

A BILL To authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting immediately after the second sentence the following new sentence: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $321,300,000 for the fiscal year 1982, and such sums as may be necessary for each of the two succeeding fiscal years.".

Indians See Dire Budget-Cut Consequences

(By Dan Balz, Washington Post Staff Writer)

President Reagan's new budget is bad news for Indians.

From general cuts in public service jobs and economic development grants to specific reductions in Indian housing and health care, the Reagan budget will have a devastating impact on reservations throughout the country, according to spokesmen for Indian organizations.

"The Indians, who are the poorest of the poor, are being cut every which way," said Suzan Harjo, legislative liaison for the Native American Rights Fund.

Ken Black of the National Tribal Chairman's Association, after a first analysis of the new budget, estimated that the cuts would "eliminate at least half of the employment among Indians and reverse the past decade's trend toward reservation development."

The Office of Management and Budget has not completed an analysis of how much total spending on behalf of Indians will be cut, but OMB analysts say Indians have not been singled out by the new administration. "As far as the Bureau of Indian Affairs goes, we've been generous in our cuts," said one OMB analyst. "Indian programs were cut less than half the amount other Interior programs were cut."

But reductions in other programs make it appear to Indian organizations as if they have been targeted—and by a president who won many votes among Indians with his promise to honor their treaties and upgrade their living conditions.

Black's group estimates that spending for Indians will be reduced by 35 percent, but his figures are imprecise and may be high.

Black and Harjo said cuts in public service jobs will cause unemployment on reservations, already around 40 percent, to rise to 60 percent or more. "It was only through this program that we were able to put people to work, to train them and keep them off the welfare rolls," Black said.

Further, elimination of the Economic Development Administration and reductions in business enterprise grants to Indians will impede development of new jobs on reservations, Black said.

Said Chuck Johnson of the Zuni Indian Reservation in New Mexico, "We know people are going to have to leave the reservation."

The biggest cut will come through the proposed elimination of the Indian Housing Program. The administration's budget says that the $703 million reduction in budget authority next year is necessary because of the 5½-year backlog in construction and the $179,000 per unit cost of the program. "The outlays of the housing program are not being cut," said an OMB analyst. "This money never would have been spent anyway. The same number of houses will be built in 1982 as would have been without this cut."

But the administration also proposes to cut sewage grants, funded separately, for these same housing units, which could reduce the number of houses built next year. And once the pipeline has been cleared, there is no guarantee that the administration will provide new money for Indian housing.

"We're seeing the housing program zeroed, along with no increase in sewage and sanitation money in the Indian Health Program and road construction grants reduced," Harjo said. "I think it looks awfully dire for Indians."

Harjo also said the administration's proposal to eliminate the Legal Services Administration will mean "for Indian people a denial of access to the courts. It takes away virtually the only avenue they have to the courts."

Other cuts will reduce funding for general health care, reforestation, education, welfare, the construction of three new health clinics and the repair of various facilities. "That is a reduction in a program to get schools out of the condemnation stage," Harjo said.

Overall funding for programs under the Bureau of Indian Affairs will be cut about $69 million in fiscal 1982. The administration has proposed that 10 Indian programs be consolidated into one block grant, administered by the tribes, and has recommended that funding for those be reduced by 25 percent. They include money for agriculture, adult education, fire protection and vocational training.

THE PAPAGO TRIBE OF ARIZONA,
Sells, Ariz.

The Papago Tribe has become very concerned over the budget cuts and the Consolidated Tribal Governmental Programs as proposed by the Bureau of Indian Affairs. We are once again placed on the receiving end of the Bureau's total insensitivity to tribal needs and tribal self-determination. It has become very apparent to us that the Bureau's priorities are only those which will allow its own bureaucracy to grow while our local needs continue to be unmet and our funding of local programs continues to decrease.

On behalf of the Papago Tribal Council and all our people, I urge you to consider our attached resolutions and our tribal positon paper regarding these proposed cuts. We are aware that federal spending and bureaucratic waste have made it necessary to take the appropriate steps to curb this waste and to bring the economy back into line. We feel we must be active participants in this process and that our recommendations will help to achieve this end.

We again thank you for your consideration of our recommendations and assure you that we are prepared to give our input. We would also like to extend an invitation to you and your staff to visit the Papago Reservation so that you may better understand our needs.

Respectfully,

MAX H. NORRIS,
Chairman, the Papago Tribe of Arizona.

THE PAPAGO TRIBE OF ARIZONA, POSITION PAPER ON PROPOSED BUDGETS AND PROGRAMS FOR FISCAL YEAR 1982, BUREAU OF INDIAN AFFAIRS

Issue

Our research has shown us that the Bureau of Indian Affairs is still practicing "Creative Accounting". It is evident that the Bureau is attempting to preserve and increase its own administrative bureaucracy while its proposed budget cuts will only serve to destroy tribal self-determination efforts. For the past five years the growth pattern for the BIA shows that their administrative funding has grown by an overwhelming figure of 274 percent while funding for tribal operated programs have decreased as follows: Education a–15.6 percent; Indian Services a–4.3 percent; and Economic Development a–63.3 percent.

The proposed Bureau budget cuts are almost totally absorbed by tribal programs while once again, in the end analysis, Bureau Administrative will receive a $24 million increase. This pattern in the BIA budget reductions directly contradicts the stated policies of the Reagan Administration to:

Reduce federal government administrative overhead spending.

Return federal dollars and spending authority to local governments.

Honor the federal government's trust responsibility toward tribal governments.

The effect of the fiscal year 1982 budget proposed by the Bureau of Indian Affairs would be to:

Drastically cut the financial resources available to tribal governments for "Self Determination" and other programs.

Cut the BIA's field services.

Maintain the current top-heavy administrative structure of the BIA.

Recommendation

We recommend that the budget reduction pattern proposed by the BIA be reversed. Budget cuts for tribal government programs and BIA field services should be minimized, not maximized. Funding for tribal programs should be increased wherever possible if self-determination is indeed a reality and is part of the trust responsibility which the BIA was mandated to protect.

We recommend that the Bureau of Indian Affairs absorb a minimum of 25 percent in budget reductions in their Central office administrative costs, reduce accordingly the mid-level management functions of the Area Offices, and eliminate the unnecessary and costly operations such as the National Office of Technical Assistance and Training.

Issue

The Bureau of Indian Affairs is using the language of the Reagan Administration of "local control, flexibility, cost effectiveness", to promote the Consolidated Tribal Government Programs (CTGP) concept. However, we have not found any language which supports this fact. We again identify the Bureau increasing its own budget with the justification that it will need additional funding to implement this new program and to provide tribes with technical assistance on the implementation process. At the same time, out of the $75.9 million reduction in the fiscal year 1982 BIA budget, $40.6 million (53.5 percent) comes from the Consolidated Tribal Governmental Programs. We ask, how can this proposal possibly meet tribal needs be cost effective, and strengthen local control?

Recommendations

The Papago Tribe does not take issue with a direct funding approach. However, we do take issue with the Bureau proposal which proposes to give us more control on one hand and then reduces the level of funding on the other hand reducing our effectiveness and chances for operating successful programs down to a minimum. We do propose local control and a maximum effort in funding for local control. Block grants to tribes should in fact be block grants made directly to the tribes with a minimum of administrative control by the Bureau.

Tribes must be guaranteed of total input in determining the flexibility, funding levels, administration, and regulations governing the CTGP system. Strong oversight by Congress, by the Reagan Administration, and by all tribal governments is needed to insure that the Bureau of Indian Affairs carries out the Indian policies proposed by President Reagan and confirmed by Interior Secretary Watt.

Issue

Funds which support existing Indian Education programs or otherwise are used to meet Indian Education needs are being cut back, in some cases to a level far below that minimum necessary for effective program operation and continuing service delivery. Drastic changes in the delivery of funds in Indian Education have been included in the fiscal year 1982 budget proposals, even though tribal consultation on this matter, as mandated by Public Law 93–638, has not been undertaken by the Bureau. Administrative costs for the BIA have risen 274 percent over the past five (5) years while services for Indian Education have undergone a 15.6 percent proportional decrease over this same period.

The de-emphasis of Johnson O'Malley is in direct conflict with Indian Self-Determination as these funds are the only education funds readily available to Tribes with emphasis on local control. Over 300 tribes are now contracting for JOM services. As tribes are placing more importance on JOM funds the Bureau, year after year, continues to decrease funding in the area.

Recommendations

Levels of funding for programs providing education services to tribes and Alaskan Native entities should continue to be set at levels commensurate with existing, unmet Indian Education needs. The Task Forces, which were set up for P.L. 95–561, determined that funding needs for Indian Education programs were not being met. For example, Johnson O'Malley funding levels were determined to be set at over $70 million, yet the existing funds amount to only $29 million. Funding levels can eventually be met, without immediate reductions as proposed the BIA, by simply reducing the overgrown Bureau bureaucracy which would not effect the effective delivery of services.

RESOLUTION OF THE PAPAGO TRIBAL COUNCIL CETA PROGRAMS FUNDING, BUDGET CUTS—RESOLUTION No. 26-81

Whereas the Reagan Administration has announced proposed budget cuts of the CETA Programs for fiscal year 1982; and

Whereas such cuts will have a critical impact on Indian reservations and tribes where unemployment remains a chronic problem; and

Whereas the Papago Reservation suffers an unemployment level in excess of forty percent (40%), and the proposed cuts in CETA funding levels will result in lay-offs of an additional 200 adults and 300 youths and will seriously impact on the economy of the Papago Reservation: Now therefore be it

Resolved by the Papago Tribe that it does hereby strongly urge Congress to resist the budget cuts proposed by the Reagan Administration and to continue the 1982 fiscal year funding levels for CETA programs originally proposed by the Carter Administration.

The foregoing Resolution was duly enacted by the Papago Council on the 5th day of March, 1981, at a meeting at which a quorum was present with a vote of 965 for; 0 against; 0 not voting; and 0 absent, pursuant to the authority vested in the Papago Council by Section 2(a) of Article V of the Constitution and By-laws of the Papago Tribe of Arizona as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is not subject to review by the Secretary of the Interior and is effective as of the date of its enactment by the Papago Council.

THE PAPAGO COUNCIL,
MAX H. NORRIS,
Chairman.

Attest: Rose Johnson, Secretary

RESOLUTION: CETA PROGRAMS FUNDING—BUDGET CUTS (ORDINANCE NO. 26-81)

[1st move: Harriet Toro; 2nd move: Rosemary Lopez; date: Mar. 5, 1981]

Districts and representatives	Number of votes	For	Against	Not voting	Absent
Baboquivari 142:					
1. Edward N. Kisto (Joann Garcia)	71.0	X			
2. Kenneth Chico, Sr. (Franklin Antone)	71.0	X			
Chukut Kuk 111:					
1. Rosemary Lopez (Laurence Jose)	55.5	X			
2. Harriet Toro (Henry Jose)	55.5	X			
Gu Achi 101:					
1. Angelo J. Joaquin, Sr. (Joseph Pete Ramon)	50.5	X			
2. Cipriano Manuel (Jonas Robles)	50.5	X			
Gu Vo 51:					
1. Cross Antone (Juan Joe Cipriano)	25.5	X			
2. William Lewis, Sr. (Pauline J. Lewis)	25.5	X			
Hickiwan 78:					
1. Henry A. Ramon (James Agnes)	39.0	X			
2. Edward Manuel (Archie Pilone)	39.0	X			
Pisinemo 60:					
1. Lamando Francisco (Herman Lopez)	30.0	X			
2. Jose Manuel, Jr.	30.0	X			
San Lucy 29:					
1. Max P. Jose (Garfield Lenzo)	14.5	X			
2. Albert Gomez	14.5	X			
San Xavier 83:					
1. John B. Narcho (Simon Mamake)	41.5	X			
2. Carmelita Mattias	41.5	X			
Schuk Toak 76:					
1. Alex Juan (Francisco Jose, Jr.)	38.0	X			
2. Ramon Campillo, Jr. (Joann Francisco)	38.0	X			
Sells 138:					
1. Andrew M. Patricio (Larry Garcia)	69.0	X			
2. Fred Stevens (Jacob Escalante)	69.0	X			
Sif Oidak 96:					
1. Elliot Lewis (Eugene Jose)	48.0	X			
2. John N. Jose	48.0	X			
Total	965.0	965			

Resolution of the Papago Tribal Council Supporting an Adequately Funded and Independent Legal Services Corporation—Resolution Number 27–81

Whereas Papago Legal Services, Inc. was first established in 1966 under the Office of Economic Opportunity and is presently funded exclusively by the Legal Services Corporation (42 USC 2996, *et seq.*) to provide free legal assistance to income eligible clients residing on or near the Papago Reservation in southern Arizona; and

Whereas throughout its history Papago Legal Services, Inc. has offered legal assistance to indigent members of the Papago Community in the subject areas of child custody, adoption, guardianship, conservatorship, divorce and separation, Papago Tribal Court misdemeanors, spousal and child abuse, probate, motor vehicle financial responsibility, Indian education, school finance, water resources protection and management, environmental protection, tribal justice administration, economic development, and other matters; and

Whereas the provision of such assistance is essential for ordering the legal affairs of the Papago people, maintaining their health and well-being, and giving expression to their basic civil rights as United States citizens; and

Whereas Papago Legal Services, Inc. is the only law office located on the Papago Reservation (an area the size of Connecticut) and is, therefore, the sole source of legal assistance for approximately 15,000 low-income Papago Indians residing here; and

Whereas Papago Legal Services, Inc. is presently under the direct control of the Papago community because it is governed by an elected Board of community members and because its four Papago speaking caseworkers and four non-Indian attorneys are required by program policy to maintain their homes in the communities they serve; and

Whereas the concept of an independent Legal Services Corporation free from political interference and control is threatened by recent legislative proposals which would fund legal services through state block grants, give state and local governments power to control the activities of legal services offices, prohibit legal services caseworkers from handling certain types of cases, and deny legal services caseworkers the right to carry out legislative advocacy on behalf of their clients; and

Whereas, such legislative proposals would create a second class system of justice for the Papago Reservation and, further, would improperly interfere with the right of self-determination expressed by the Papago people through their freely elected representatives on the Board of Directors of the Papago Legal Services, Inc.; and

Whereas, a recent proposal to divert substantial portions of the Legal Services Corporation appropriation from field offices such as Papago Legal Services, Inc. to private lawyers providing services under judicare plans would deny legal services for the Papago reservation because private lawyers are inaccessible to the Papago Community; and

Whereas, recently proposed decreases in the Legal Services Corporation appropriation would reduce drastically the level of services Papago Legal Services, Inc. provides for the community; and

Whereas, by resolution of February 26, 1981, the Board of Directors of Papago Legal Services, Inc. has requested the support of the Papago Tribal Council regarding the above described matters: Now, therefore, be it

Resolved by the Papago Tribal Council that it supports adequate funding for the Legal Services Corporation and that it opposes, as inconsistent with the rights of the Papago people to self-determination and equal justice under law, any changes in the Legal Services Corporation Act (including but not limited to the state block grant funding proposal) which would diminish the independence of the Legal Services Corporation and its locally controlled grantee programs or subject the Legal Services Corporation and its locally controlled grantee programs to government interference of any kind.

Be it further resolved that the Papago Tribal Council opposes any changes in the Legal Services Corporation Act which would prohibit legal services practitioners from handling certain types of cases, deny legal services practitioners the right to carry out legislative advocacy on behalf of their clients, or require judicare or other service delivery models which are manifestly ill-suited to the Papago reservation.

Be it further resolved that the Papago Tribal Council herewith calls upon the President of the United States, the Honorable Dennis DeConcini, the Honorable Barry Goldwater, the Honorable John J. Rhodes, the Honorable Eldon Rudd, the Honorable Bob Stump, the Honorable Morris K. Udall, and all other members of the United States Congress to fulfill the principles of this resolution when considering the Legal Services Corporation reauthorization and appropriation.

Be it further resolved that the Papago Tribal Council herewith calls upon members of the Papago community, the Papago District governments, Native American organizations, and friends in the non-Indian world to take such steps as are within their means to preserve Papago Legal Services, Inc. and the Legal Services Corporation as independent, adequately funded organizations.

Be it further resolved that the officers of the Papago Tribal Council and the attorneys or other agents of the Papago Tribe are authorized and directed to accomplish the purposes of this resolution.

The foregoing Resolution was duly enacted by the Papago Council on the 5th day of March, 1981, at a meeting at which a quorum was present with a vote of 965 for; 0 against; 0 not voting; and 0 absent, pursuant to the authority vested in the Papago Council by Section 2 (a), (d), (e), and (f) of Article V of the Constitution and By-laws of the Papago Tribe of Arizona as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is not subject to review by the Secretary of the Interior and is effective as of the date of its enactment by the Papago Council.

THE PAPAGO COUNCIL,
MAX H. NORRIS,
Chairman.

Attest: Rose Johnson, Secretary.

RESOLUTION OF THE PAPAGO TRIBAL COUNCIL, TRIBAL RESPONSE TO REAGAN'S PROPOSED FUNDING CUTS—RESOLUTION NO. 28–81

Whereas the Reagan Administration has proposed cuts in the federal budget affecting social, educational, employment, housing and economic development programs which would have disastrous effects upon Indian reservations; and

Whereas the Papago Council is deeply concerned about the effect of the proposed cuts on the Papago Tribe and Reservation; and

Whereas the Reagan Administration has further proposed to consolidate federal funding for such programs into block grants to the several States; and

Whereas federal program funding through State agencies, such as Title XX, Social Security funding, has either totally failed to reach the Papago Tribe or has had such State criteria attached so as to make the programs non-responsive to the needs of the Papago Tribe; and

Whereas the Papago Council objects to the use of block grants to fund federal programs on Indian Reservations unless such grants are made directly to Indian tribes or to the Bureau of Indian Affairs for Indian tribal governments: Now, therefore, be it

Resolved by the Papago Council that it does hereby direct the program directors and the officers of the Papago Tribe to develop a plan and response of the Papago Tribe to the proposal of the Reagan Administration to cut federal social, educational, employment, housing and economic development programs, and in response to the proposal of the Reagan Administration to consolidate funding for such programs into block grants to the States rather than directly to Indian tribes or the Bureau of Indian Affairs for Indian tribal governments.

Be it further resolved that the Papago Council herewith calls upon the President of the United States, the Honorable Dennis DeConcini, the Honorable Barry Goldwater, the Honorable John J. Rhodes, the Honorable Eldon Rudd, the Honorable Bob Stump, the Honorable Morris K. Udall, and all other members of the United States Congress to consider the foregoing Papago Tribe's plan and response of the Papago Tribe.

The foregoing Resolution was duly enacted by the Papago Council on the 5th day of March, 1981, at a meeting at which a quorum was present with a vote of 965 for; 0 against; 0 not voting; and 0 absent, pursuant to the authority vested in the Papago Council by Section 2 (a), (d) and (f) of Article V of the

Constitution and By-Laws of the Papago Tribe of Arizona as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Resolution is not subject to review by the Secretary of the Interior and is effective as of the date of its enacment by the Papago Council.

THE PAPAGO COUNCIL,
MAX H. NORRIS,
Chairman.

Attest: Rose Johnson, Secretary.

RESOLUTION: TRIBAL RESPONSE TO REAGAN'S PROPOSED FUNDING CUTS (ORDINANCE NO. 28-81)

[1st move: Rosemary Lopez; 2nd move: Henry Ramon; date: Mar. 5, 1981]

Districts and representatives	Number of votes	For	Against	Not voting	Absent
Baboquivari 142:					
1. Edward N. Kisto (Joann Garcia)	71.0	X			
2. Kenneth Chico, Sr. (Franklin Antone)	71.0	X			
Chukut Kut 111:					
1. Rosemary Lopez (Laurence Jose)	55.5	X			
2. Harriet Toro (Henry Jose)	55.5	X			
Gu Achi 101:					
1. Angelo J. Joaquin, Sr. (Joseph Pete Ramon)	50.5	X			
2. Cipriano Manuel (Jonas Robles)	50.5	X			
Gu Vo 51:					
1. Cross Antone (Juan Joe Cipriano)	25.5	X			
2. William Lewis, Sr. (Pauline J. Lewis)	25.5	X			
Hickiwan 78:					
1. Henry A. Ramon (James Angea)	39.0	X			
2. Edward Manuel (Archie Pilone)	39.0	X			
Pisinemo 60:					
1. Lamando Francisco (Herman Lopez)	30.0	X			
2. Jose Manuel, Jr.	30.0	X			
San Lucy 29:					
1. Max P. Jose (Garfield Lenzo)	14.5	X			
2. Albert Gomez	14.5	X			
San Xavier 83:					
1. John B. Narcho (Simon Mamake)	41.5	X			
2. Carmelita Mattias	41.5	X			
Schuk Toak 76:					
1. Alex Juan (Francisco Jose, Jr.)	38.0	X			
2. Ramon Campillo, Jr. (Joann Francisco)	38.0	X			
Sells 138:					
1. Andrew M. Patricio (Larry Garcia)	69.0	X			
2. Fred Stevens (Jacob Escalante)	69.0	X			
Sif Oidak 96:					
1. Elliot Lewis (Eugene Jose)	48.0	X			
2. (John N. Jose)	48.0	X			
Total	965.0	965	0	0	0

DEPARTMENTAL RESPONSES TO WRITTEN QUESTIONS

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
BCCO 360

REC'D JUN 11 1981

JUN 8 - 1981

Honorable William S. Cohen
Chairman, Senate Select Committee
on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Provided herewith is the Bureau of Indian Affairs' written responses to questions which were raised by the Select Committee on Indian Affairs, subsequent to the March 23, 1981 Committee oversight hearing on the Bureau's FY 1981 budget.

If you have any questions or if we can provide any additional information, please contact Mr. Ralph Sabers, Acting Assistant Director, Financial Management, telephone 343-6342.

Sincerely,

Kenneth L. Payton
Acting Deputy Assistant Secretary -
Indian Affairs (Operations)

QUESTIONS AND ANSWERS ON THE BUREAU OF INDIAN AFFAIRS FISCAL YEAR 1982 PROPOSED BUDGET

Question #1: The FY '82 justification for the ten programs being consolidated indicates a decrease in funding for these programs of 25%. If these programs were contracted by a tribes under P.L. 93-638, the tribe or tribal organization would be entitled to contract support for costs of administration. The consolidated program proposal does not appear to offer any support for administration. How are tribes supposed to operate these programs without such support?

Answer: A modest sum is included in the Consolidated Tribal Governmental Program for contract support. This will be supplemented in accord with the contractor's indirect costs rate, as negotiated with the Office of Inspector General, and availability of Contract Support Funds included in the appropriation under the Self-Determination Services subactivity.

Question #2: The Higher Education Scholarship Program is included in the consolidated programs. A number of off-reservation students are served now by this program. How will the consolidated program provide for continuation of scholarships for students already in school and any new applications for any such new students?

Answer: Procedures for implementation of the consolidated grants will be developed in greater detail over the next several weeks. The situation described is a major factor which will be considered and addressed in procedures which are finally developed for implementation of the grants. The critical importance of this situation is illustrated by the large number of scholarship grantees who live off the reservation. However, even before the proposed consolidation, tribes have been establishing the amount of funds available for scholarships through their participation in the Bureau's budget process. These tribal decisions have included funds for non-resident scholarship recipients.

Question #3: What specific steps does the BIA intend to take to insure that the overall level of funding meets the educational needs of Indian students in Bureau-operated and tribal contract schools?

Answer: School operations are not included in the consolidated programs. However, the implementation of residential and academic standards for the Bureau's elementary and secondary education program will enable us to conduct both programmatic and financial reviews of the specific educational needs of Indian students attending Bureau funded schools. The standards will provide a basis for a measurable evaluation of programs while the new education fund accounting system will provide exact expenditures of those programs. This data will then be utilized by the Bureau in determining whether the level of funding meets the educational needs of Indian students.

Question #4: What specific steps does the BIA intend to take to insure that the accountability for programs is properly focused and assignable to specific offices or authorities?

Answer: To insure continued accountability of programs under a grant, the Bureau is in the process of developing administrative procedures which will clearly delineate the responsibilities and authorities at each management level.

Question #5: What specific steps does the BIA intend to take to insure that Indian people are given the opportunity to start their own schools and to have them fully developed, including construction, without the necessity for exposing their children to conditions that are unsatisfactory during the start up process?

Answer:

1. In the past, starting a new tribal school was very difficult because of the funding situation. This has been much improved because:

   a. P.L. 93-638 provided a vehicle for contracting, and

   b. Formula funding can be adjusted in a given Fiscal Year to accommodate one or two new starts without large reductions in the rest of the 200+ schools.

2. We have instituted an implementation set-aside fund which in FY 1982 can be used for start-up costs of new programs or program expansions. Here again, this is a limited fund.

3. New proposed regulations provide a mechanism for determining the funds necessary for the operation of an education program for inclusion in the budget cycle.

4. Previously private contract school construction is provided for, based upon a priority listing which is developed each year.

Question #6: The FY '82 construction budget does not include funding for new construction of any schools on the Fiscal Year 1982 School Construction Priorities List.

   a. What planning has been done to provide construction funding in subsequent fiscal years?

Answer: It is planned to request future year construction funding, within budgetary constraints, for those projects that are being designed from advance design funds appropriated in FY 1981 or for which advance design funding is appropriated in FY 1982.

b. What temporary measures have been taken to provide facilities for unhoused or inadequately housed Indian students in schools awaiting construction funding? How does any such temporary measure affect the priority ranking for a school in subsequent fiscal years?

Answer: In some cases leased buildings have been provided. In other cases, rooms which have been brought up to meet minimum life safety codes under the Facility Improvement & Repair Program (FIR) are currently being used, even though they are still substandard. The priority ranking list is presently being reviewed to see if some of the requirements can be satisfied through the FIR program. It is anticipated that this review will be completed by September of this year and it may result in some of the schools being removed from the new construction priority list and the work accomplished under the FIR program.

Question #7: Dr. Barlow was requested at the hearing by Senator Melcher to provide the maintenance costs for the Albuquerque Indian School. Please provide such costs and a breakdown of the various categories in the overall BIA budget which are used to maintain the school.

Answer: The estimated operation and maintenance costs for the Albuquerque Indian School, school year 1981-1982, are as follows:

Operation............................	$301,200
Repair and Maintenance...............	210,000
Total..........................	$511,200

This amount is part of a total figure for "Facilities Management", shown on page BIA-119 of the Fiscal Year 1982 Bureau of Indian Affairs Congressional Justifications.

Question #8: In the testimony, it was indicated that the BIA has been concerned for the last couple of years about the indirect costs problems faced by contract schools and that a task force has been established to identify problems related to indirect costs and develop approaches to the problems.

a. How long has the task force been in place and who serves on it? If the task force consists of only BIA personnel, why haven't contract school representatives been included?

b. What reports of findings, conclusions, or recommendations have come out of the task force thus far? If any, have they been submitted to the contract schools for comment? If not, why not?

c. Several contract schools have opted to receive indirect and and administrative costs through a lump sum arrangement rather than via an indirect cost rate. How has this worked thus far and what problems have arisen with lump sum payments? What he been the average length of time from the beginning of the fiscal year until the lump sum agreement has been negotiated and the money received or available to the contractor.

6. Lump sum guidelines were prepared earlier this year and several contract school representatives have had serious criticisms of these guidelines. What were the criticisms and what has the BIA done to reconsider the guidelines with input from contract school representatives?

Answer: To identify problems related to indirect costs and develop approaches to the problem, Mr. Ralph Gonzales, Chairman, Indirect Tasks Force, has been meeting since September 7, 1980, with the following BIA personnel: Jacobs, Suagee, Cramer, Ba[illegible]y, Powers and Stangl. Members of the task force met with representatives of the contract schools and the Coalition of Indian Controlled School Boards. Copies of the report of October 22, 1980, "Analysis of Method of Delivery of Funds for the Payment of Indirect Costs by the Federal Government to Tribal Entities", were submited to the contract schools for review and comment. Such comments were reviewed and involved in the development of a response to report No. 56-985, Page 41, which was submitted to the Senate Committee on Appropriations on March 19, 1981.

For FY 1981, the contract schools are receiving Contract Support Funds to accommodate their administrative overhead costs via the lump sum agreement method. In order to assist the Contracting Office in the negotiation of a lump sum amount, the task force identified elements in existing guidelines (Re: FMC 74-4) to identify costs to be cosidered as allowable for inclusion among the administrative overhead or indirect costs associated with the operation of an educational program.

In some areas, the negotiation process began as late as February, 1981. It is our understanding that two of the contract schools choose to continue using the indirect cost rate, negotiated with the Office of the Inspector General. The contract schools usually severely criticize the Bureau for using the guidelines whenever they are unable to justify certain costs in support of the educational program to be contracted. The contract schools criticized contracting officers for adhering to the classification of personnel costs, as listed, rather than identifying the functions of personnel for possible modifications that may assist in the completion of the lump sum agreement.

The Bureau plans to put the guidelines into final form for use Bureau-wide, as appropriate, after the FY 1981 trial period and a review of comments.

Question #9: The BIA testimony at the hearing indicated that a way is being sought "to move contract support dollars which fund indirect overhead to the regular program dollar--appropriation for the school" in order to attempt to solve indirect costs problems which contract schools face.

a. Is this mechanism being considered for other P.L. 93-638 tribal contractors?

Answer: Yes, it is intended to be applied generally to all tribal contractors.

b. We understand that the Indian Health Services has utilized this method to fund administrative and indirect costs for its P.L. 93-638 contracts and has begun to encounter problems with it. Has the BIA begun converations with IHS to facilitate the two Agencies working together to find a uniform and appropriate method to fund indirect costs?

Answer: Yes, initial discussions have been held and we are aware of the effort undertaken by Indian Health Service. We will have further discussions with IHS as we continue to implement the Bureau's approach to providing contract support funds to tribal contractors on a timely and realistic basis.

Question #10: Please explain in detail the BIA Housing Improvement Program and its interrelationship with Indian Action Teams. With the proposed elimination of the Indian Housing Program in the Department of Housing and Urban Development, has there been any planning within the Reagan Administration to increase the role of the Bureau of Indian Affairs in construction of new housing on reservations and in Indian trust areas in Alaska and Oklahoma?

Answer: The Bureau of Indian Affairs' Housing Improvement Program provides for renovations and repairs to existing units as well as the building of some new housing. To the extent possible, the program is administered through tribes or tribal organizations and by having tribal officials participate in the applicant selection process. Every effort is made to use Housing Improvement Program funds in conjunction with other programs so the result will be a greater amount of housing improved than would otherwise be possible with the Housing Improvement Program funds alone. In cases where training (i.e, Indian Actions Teams) programs are used in conjunction with Housing Improvement Program, the funds are limited to the provision of materials and for the provision of inspection and skilled labor otherwise unavailable.

Question #11: How will the elimination of the public service employment component of the CETA Program at the Department of Labor affect the operation of tribal governments?

Answer: The Bureau does not know the amount of CETA funds allocated to each tribe for public services employment. Consequently what affect the elimination of this component will have on the tribal governments is not known at this time.

Conversations with Tribal leaders and Bureau staff in the field indicates the tribes will be affected severely. However, it is too soon to predict specific effects on tribal governments and possible secondary effects on Bureau programs.

Quesiton #12: Several block grant programs for states are being proposed by the Reagan Administration to consolidate various categorical grant programs in the areas of education, health services, social services, etc.

a. How will this effect delivery of programs to the Indian tribes or individual Indians on reservations?

b. Has there been any consultation with the other agencies currently responsible for the categorical grant programs to formulate a delivery concept under the block grant mechanism?

Answer: The Bureau is aware of the Administration's categorical grant proposal, but until the appropriation items are given final consideration, it is too early to determine the full impact on the delivery of programs to Indian tribes and individual Indians.

There has not been any active consultation between the Bureau and other agencies for the purpose of formulating a block grant delivery mechanism. The Bureau is aware that some tribes and tribal organizations are providing consultation to other agencies regarding delivery of programs under their respective block grant concept.

Question #13: A key part of the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420) and the overall settlement for the claims made by the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians, was the provision of a greatly expanded land base for the tribes. As a result of the settlement, for example, the size of the Penobscot Nation reservation will increase more than thirty-fold-from about 5,000 acres to nearly 155,000 acres.

a. Was this vast increase in the land area to be under management by and for the Penobscots taken into consideration in the formulation of the BIA budget for FY '82? If this factor was considered, then why has the Penobscot, for example, been held at or below its funding level for the current year?

Answer: Yes, the $925,000 request under the Maine Indian Claims item on page BIA-36 is expressly for providing additional services to the Penobscots and other Maine Tribes because of the passage of P.L. 96-420. A $460,000 item is specifically related to the management of the increased land holdings for these tribes. The Penobscot funding referred to is the amount already in their base for the management of their lands before the claims settlement. That funding level for land or resource management has been set by the tribe in the BIA budget process.

Question #14: Let us focus for a moment on just three critical program areas: Forestry, Real Estate Services, and Wildlife and Parks. BIA funds provided to the Penobscots in these areas most directly affect the Indians' ability to care for their newly-acquired land. The funding levels for FY 79-81 for those programs compare as follows with that we understand to be the FY '82 proposals:

	FY 79	FY 80	FY 81	FY 82
Forestry	$ 86,300	$ 57,300	$ 47,300	$ 59,700
Real Estate Services	117,100	111,400	111,400	106,000
Wildlife Services	77,200	75,400	77,200	88,500
Total	$280,600	$244,100	$245,900	$254,200

How can you explain, in light of the passage of P.L. 96-420, appropriations for the coming fiscal year which would be below the average for the last three?

a. Does this appropriation take into account the absence of assistance for the tribes from the State of Maine?

With respect to the above table, we have the following funding levels:

	FY 79	FY 80	FY 81	FY 81 Add-on	FY 81 Total	FY 82
Forestry	$ 86,300	$ 55,541	$ 54,100	$ 40,802	$ 94,902	$100,500
Real Estate Svs.	117,100	92,200	86,479	49,723	136,202	155,700
Wildlife & Parks	47,200	75,390	64,500	42,875	107,375	131,700
Indirect Cost	42,460	46,362	47,154	---	47,154	*
Total	$293,060	$269,493	$252,233	$133,400	$385,633	$386,900

* To be computed on applicable Indirect Cost Rate.

Answer: At this time of the first land acquisition (April 23, 1981) an additional amount of $133,400 for the balance of FY 1981 was provided to the Penobscot Nation for the management of the 41,486 acres of trust land they purchased from the Dead River Group of Companies, and for any of the 78,719 acres purchased in fee which may be traded and converted into trust status during the balance of this fiscal year. In addition, there is a request for $925,000 in the Indian Services part of the budget (see page BIA-36 of the Justifications) which covers the total needs estimated as a result of the passage of the Settlement Act. Parts of that amount will be used for natural resources and real estate programs. Assuming that these funds will be appropriated in FY 1982, the individual program amounts will appear in the specific program budget justifications in FY 1983.

Question #15: The Department of the Interior, pursuant to P.L. 96-420, is purchasing land for the Penobscot Nation. Virtually, all of the acreage being purchased for the Penobscots is being sold by the Dead River Company. By April 7, 1981, approximately 125 - 130,000 acres will have been acquired for the tribe, and 145-150,000 acres should be in hand by June 30. (As a result of direct purchases within defined Indian Territory and subsequent, planned swaps, approximately 125,000 acres of the total land held as of the beginning of FY 82 will be within Indian Territory and, therefore, held in restricted trust status for the Penobscots' benefit by the Department of the Interior). These parcels of land lie in the midst of some of the most valuable and productive forest land in the United States. The Dead River Company has managed the land well. How does the Department intend to match the Dead River Company's record of land management, disease and fire prevention, and resource protection with no additional funding?

a. What will be the potential impact of poor management on adjoining privately-held lands?

b. Has the Bureau made any provision for additional funds in FY 81 to manage these newly-acquired lands?

Answer: As indicated in the answer to question 14, yes, the Bureau made additional funds available to both the Penobscot Nation and the Passamaquoddy Tribe for the management of the purchased lands on April 23, 1981. On the same date both the Penobscot Nation and the Passamaquoddy Tribe signed a Management Agreement with the Dead River Group of Companies. The additional funds requested for FY 1982 (see page BIA-36) will provide adequate service levels to meet the trust responsibility of the Bureau on the trust lands. If the tribes wish to elevate the intensity of management and use of these lands, they may do so by modifying their budget priorities for Bureau funds in future years or by use of their trust income from the lands.

Question #16: Section 6(i) of P.L. 96-420 provides:

> "As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians...to the same extent and subject to the same eligibility criteria generally applicable to other Indians..."

And Section 9(C) of that Act provides that the availability of trust funds appropriated for the acquisition of land or for the benefit of the tribes in the Settlement Act "may not be considered as income or resources or otherwise utilized as the basis... (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled."

a. Has the BIA and the Department complied with the letter and the spirit of those provisions of the Act in proposing the FY 82 levels of financial assistance for the Maine Tribes that are participants in the Act?

b. Have you examined the program levels proposed for the Penobscot Nation, for example, in comparison with other similarly-situated Eastern tribes, such as the Seminoles?

Answer: Yes, the funding level proposed is within the letter and spirit of Sections 6(i) and 9(c). With respect to the issue of comparability funding levels with the Seminole Tribe or other Eastern Area tribes, there is no way to compare program funding levels for each tribe, as Self-Determination offers each tribe the right to establish their own priority levels for the various programs according to the varied needs of the tribes.

For example, the Seminoles have no need for welfare assistance funding, as the state of Florida provides such assistance on behalf of all needy Indians in the state, whereas the the Penobscot Nation and Passamaquoddy Tribe have extensive welfare assistance needs since the state of Maine discontinued such funding in July 1980.

Question #17: Please provide the Committee with a comparison of funding levels for all Eastern tribes as appropriated for FY 80 and FY 81 and as proposed for FY 82 in the following nine program areas: tribal government, law enforcement, housing, self-determination, economic development and employment assistance, forestry, wildlife and parks, real estate services and social services.

a. Do you know whether Eastern tribes as a whole receive Federal benefits and services at levels comparable to Western tribes?

b. Please provide any documentation necessary to compare Federal benefits and services received by Eastern and Western tribes.

Answer: For a comparison of funding levels for all Eastern Area Tribes see attached "Comparison Tables I, II, and III, Eastern Area Tribes." Regarding comparable Federal benefits and services, the Bureau attempts to meet each tribes needs to the extent possible within the resources provided by the appropriation process. The Settlement Act requires a comparable study of the Federal benefits and services by October 30, 1982.

Question #18: In the past, the BIA has depended upon the Fish and Wildlife Service's capability to fulfill its trust fisheries services obligations to Indian fishing tribes.

a. With the proposed reductions in the Fish and Wildlife Service, has the BIA assessed the impact of Fish and Wildlife reductions in terms of dollars and personnel?

Answer: We have contacted the Fish and Wildlife Service at the Central Office level regarding their reductions; however, this has not been broken down into terms of impact on individual projects. We will be assessing the impacts internally at the local agency and tribal level.

b. Has BIA allocated funds internally to develop its own capability in fisheries? If so, where will the BIA capability be housed, spent and proportioned?

Answer: A division of Fish, Wildlife and Recreation was set up in May of 1980, in the Office of Trust Responsibilities, to provide direction and technical capabilities for these programs. A staff of 15 was proposed; there are presently three on board. The field offices have five positions (in two Areas) directly assigned to fish and wildlife activities. Present plans for FY 1982 are, if appropriations, positions and personnel ceiling permit, to locate four additional fish and game management staff at the Portland, Minneapolis, Sacramento, and Phoenix Area Offices.

At this time the FY 1982 Budget was prepared, we were not aware that the Fish and Wildlife Service was being cut or the specific programs within the Service that would be affected; accordingly, funds were not specifically allocated to provide the services within the BIA.

c. Has BIA begun and completed an assessment of the funding needs of fishing tribes whose hatcheries and other fishery related needs would be affected by proposed cuts in national Oceanic and Atmospheric Administration, Economic Development Administration, and other agencies?

Answer: No, we have not. As previously stated, we were not aware that those programs were going to be cut. However, we will be assessing the impacts that the cuts will have on the funding needs as they affect they fishery programs, as well as other related programs.

d. What are the budgetary implications for tribes eligible to participate in the Northern Salmon Enhancement Act of 1980?

Answer: We do not know if any funds have been appropriated to accomplish the programs covered by the Act. Any planned enhancement projects which the tribes deem essential for the preservation and development of the resources will have to be accomplished within their presently allocated funds.

Question #19: Has the BIA calculated its budget for FY 82 in regard to tribes it does not serve at present but will serve in the near future as a result of legal actions concerning Indians in California and administrative actions concerning Indians now participating in the Federal Acknowledgment Project?

Answer: The FY 1982 budget estimates did not include any funding with respect to the terminated Rancheria Indians in California. The budget does include an increase of $1 million to cover additional tribes who would be eligible for services because of the findings of the Federal Acknowledgment Project. However, experience since the FY 1982 budget was formulated indicates that the rate of tribal acknowledgment in FY 1981 is slower than expected and that the base level of funding for FY 1981 will probably be sufficient to furnish services to new tribes added in FY 1982.

Question #20: Mr. Canan testified that up to 400 BIA positions would be eliminated under the revised FY 82 budget proposal.

a. If tribes choose not to operate the ten "Consolidated Tribal Governmental Programs", would any BIA positions be cut?

Answer: Yes, to the extend that these programs may currently be operated with Bureau staff.

b. Are all proposed BIA personnel cuts tied to tribal takeover of programs?

Answer: No, some are related to the general reduction for Personnel Services of $9,886,000; and the Business Enterprise Development phase-out.

c. Has any consideration been given to elimination or reduction of Area Office staff positions? If so, how many of the reductions at the Area level would translate into personnel additions at the Agency or Central Office level?

Answer: Yes, our plans are not complete at this time. The general reduction will be concentrated at the Area and Central Office levels. Some responsibilities will be delegated to the Agency level but few positions would be required for these additional responsibilities.

Question #21: Natural resources development and trust responsibilities are listed as areas of increased funds. What is the increase, if any, in funds budgeted to provide support for ongoing and future water rights litigation?

Answer: Of the $1.5 million increase in Water Policy and Implementation (Natural Resources Development) and $500,000 of the increase in Rights Protection ligitation support (Trust Responsibilities) is for preparation of studies that will provide support for litigation, or support for negotiation that will obviate the need for costly litigation.

Question #22: Please explain, in detail, the cuts proposed in the "forestry initiative" and the reason why forestry is also listed as an item to receive increased funding as part of natural resources development. Are these proposed cuts in any way related to the Maine Indian Land Claims Settlement Act of 1980?

Answer: The 1980 Office of Trust Responsibilities reorganization (130 DM 5, dated May 2, 1980) established the Forestry Field Staff Assistance Office (FFSAO) in Fort Collings, Colorado, which will provide coordination, and a full range of foresty computer services and field technical assistance for the Bureau-wide Inventory & Management Plan program. Establishment of this field office will be a major step forward in providing each timbered reservation or trust property, with a multiple-use forest management plan setting forth information and alternatives for the mangement of their valuable forest resources.

In FY 1982 budget planning allowance process, the Bureau proposed a budget initiative requesting $650,000 to fund the needs of this office in assisting field installations to obtain management tools. The subject initiative has been subsequently deleted from the budget request submitted to Congress. This deferral will most certainly have a impact on the Bureau's ability to provide needed funding support to field installations to secure necessary management tools, principally aerial photography, forest type mapping and environmental assessments.

Other increases requested in the Forestry program under the Natural Resources Development activity relate to funds requested to meet tribal priorities for the program which were expressed as part of the local priority setting process. These funds will supplement existing agency level Forestry programs.

The proposed cut is not related to the Maine Indian Land Claims Settlement Act.

Question #23: This Committee has been concerned with the problem of an inadequate Contract Support Fund line item in the BIA's budget for tribal government indirect costs allocable to self-determination contracts and grants. How does the Bureau intend to apportion contract support funds within the Consolidated Tribal Governmental Programs initiative so as to avoid the current "theoretical over-recovery" problem and thus not further discourage tribes from self-determination initiatives?

Answer: In FY 82, it is expected that Contract Support Funds will be applied to tribal contracts or grants, including the Consolidated Tribal Governmental Programs in accord with indirect costs rates negotiated with the Office of the Inspector General and availability of Contract Support Funds as provided in the Bureau's appropriation. The "theoretical over-recovery/ under-recovery" of administrative costs is a separate problem more related to the fact that there are assorted procedures for establishing and awarding indirect costs as presently practiced by different Federal Agencies that may not allow the tribal contractor complete recovery of administrative costs.

While the Bureau tries to pay its full share of administrative costs, not all Federal Agencies follow this process. The Bureau is presently considering alternate solutions to this problem including legislative solutions.

Question #24: The Consolidated Tribal Governmental Programs initiative includes Indian Action Team Programs and Self-Determination grants. Inasmuch as the Appropriations Committees in the 96th Congress added to the fiscal year 1981 Indian Action Team budget, some $1.55 million to strengthen the tribal government capacities of smaller tribes denied equity in funding under BIA administration of the Public Law 93-638 Self-Determination Program , what mechanism is envisioned within the Consolidated Tribal Government Programs initiative to handle the smaller tribe equity issue.

Answer: Under the Consolidated Tribal Governmental Program, each Tribe has the option to use appropriated funds for any or all of the CTGP Programs in accord with their own tribal priorities. One of the options presented for tribal comment proposes to redistribute the base of the Indian Action Team of the ten CTGP programs

Comparison Table I
Eastern Area Tribes
FY 1980

	N.Y. Tribes	Cherokee	Seminole	Miccosukee	Choctaw	Chitimacha	Coushatta	Indian Township	Pleasant Point	Penobscot
Tribal Gov't.		63,200	84,600	-0-	89,000	2,800	-0-	7,500	12,300	15,100
Law Enforcement	-0-	-0-	-0-	-0-	206,700	-0-	-0-	68,147	86,360	70,000
Housing	-0-	208,700	29,500	185,000	108,700	5,400	50,000	27,500	44,900	55,300
Self-Deter.	663,200	232,300	58,000	-0-	189,400	11,000	12,300	15,000	22,000	15,000
Econ. Dev.	-0-	109,400	50,500	92,000	49,500	-0-	-0-	-0-	-0-	-0-
Empl. Assistance	51,400	126,800	154,700	200	177,700	18,200	23,800	62,900	103,000	126,700
Forestry	-0-	53,900	58,500	-0-	80,600	-0-	-0-	42,800	70,100	55,541
Wildlife/Parks	-0-	-0-	-0-	-0-	25,400	-0-	-0-	24,000	39,200	75,390
Real Est. Svs.	-0-	211,200	46,500	-0-	18,000	-0-	-0-	12,253	45,240	92,200
Social Services	-0-	410,600	69,600	-0-	1,244,100	-0-	-0-	37,000*	42,250*	52,600

* 4th quarter only.

Comparison Table II
Eastern Area Tribes
FY 1981

	N.Y. Tribes	Cherokee	Seminole	Missou-sukee	Choctaw	Chit-imacha	Choush-attas	Indian Township	Pleasant Point	Penob-scot	Mali-seet
Tribal Government	-0-	65,000	79,500	-0-	79,500	2,300	-0-	7,500	12,300	15,100	50,000
Law Enfor.	-0-	41,600	-0-	233,700	245,700	-0-	-0-	122,000	149,000	132,200	-0-
Housing	130,000	222,043	30,400	161,331	132,700	5,400	49,600	27,200	44,500	54,800	-0-
Self-Deter.	434,400	227,700	56,800	14,700	190,100	13,200	14,700	14,700	21,800	14,100	-0-
Econ. Dev.	-0-	103,462	49,773	48,676	38,102	-0-	-0-	-0-	-0-	-0-	-0-
Employment Assistance	42,512	98,596	148,093	-0-	146,093	9,922	23,284	61,504	100,705	121,845	-0-
Forestry	-0-	133,720	148,710	-0-	198,970	-0-	-0-	115,885*	66,300*	94,902	-0-
Wildlife/ Parks	-0-	-0-	-0-	-0-	17,900	-0-	-0-	60,000*	32,800*	106,375	-0-
Real Est. Svs.	-0-	220,094	48,601	-0-	12,367	-0-	-0-	14,610*	63,805*	136,202	-0-
Social Svs.	-0-	635,584	69,816	-0-	1,146,400	-0-	-0-	198,100	210,000	271,900	-0-

* By Tribal agreement all the FY 1981 Trust Add-on for Passamaquoddy Tribe was to Indian Township.

QUESTIONS SUBMITTED BY SENATOR MARK ANDREWS

Consolidated Program Grant

Question: The Reagan administration budget revisions for FY '82 proposes to put 10 programs together to be offered to the tribes as a "consolidated program grant", the Bureau's equivalent to block grants. The January budget submission sought $162.1 million for the operation of these programs. The Reagan proposal would cut this request by $40.6 million. The question is: Where does this saving come from? Costs of administration or program level? (In the hearing before the Select Committee on March 23, James Canan, the Acting Assistant Secretary for Indian Affairs testified that BIA estimated that $10 million would come from reduction of BIA staff at the D.C. and Area Office level. The other $30 million would be a reduction of program monies. This is a reduction of 20% in program level.)

Answer: Perhaps as much as $10 million will come from a reduction in administrative or program management costs and as much as $30.6 million would be a reduction of program monies. Specific amounts will not be known until the tribes make their decisions on program mix and method of operation.

Question: Under the "consolidated program grant", the BIA is beginning to develop regulations to govern the procedure. In testimony before the Select Committee it was indicated that these regulations will not be finalized prior to the beginning of FY '82. As described at the March 23rd hearing, the grant proposal will be available at the option of the tribe. If the tribe does not apply for the block grant, will the BIA continue to operate the programs? In light of the 20% reduction in funding level, what incentive does the tribe have to apply for a grant? Will a tribe be able to apply for single programs among the 10 or will it have to assume all or nothing? Will a tribe still be able to contract these programs under P.L. 93-638? (Indian Self-Determination and Education Assistance Act.)

Answer: The Bureau will continue to operate any program that a tribe may not include in its grant package but still desires to fund out of the "Consolidated Tribal Governmental Programs" activity.

Tribal incentives to apply for a grant will come as a result of their ability to set program priorities and funding levels, and also be able to administer the programs with more flexibility. A tribe will also have the option of administering under a grant any or all of the 10 programs identified in the new Activity.

The Bureau proposes to convert the P.L. 93-638 procedures from a contract to a grant mechanism. Any tribe wishing to assume control of a BIA program or programs will be able to accomplish this through a grant.

Question: According to information obtained from George Lynn, BIA financial management section, these personnel cuts contemplated as a result of the "consolidated program grants" will fall most heavily on Employment Development (i.e., Adult Vocational Education program and the Employment Assistance program). The tabular information indicates that these two programs will lose 293 permanent positions. This appears to be all of the permanent positions assigned to these two programs. Is this cut based simply on the "consolidated grant" program or are these two programs being phased out?

Answer: The actual positions to be abolished have not been finalized. Tribal program priorities will determine the actual positions to be abolished or retained. The Employment Development program is not being phased out, the tribes are being given the opportunity to retain the program and set priorities for it against the other consolidated programs.

Question: The FY 82 revised budget justification indicates that the Business Enterprise Development program is being reduced by $1.3 million and this begins a two-year phase out of the program. In light of the fact that EDA is being terminated at the Commerce Department, what programs will there be for encouraging businesses to locate on Indian reservations?

Answer: The only Bureau assistance available to Indians will be through loan programs to Indian entrepreneurs from the BIA Financial Assistance program. These programs are loan programs and are not the motivating type programs that work with tribal bodies on the "how to" phase of economic development. The loan activity planned for FY 1982 is $14.8 million in new direct loans with an additional amount of $30.7 million in loan guarantees.

Question: What aid will be available to the tribes to help in economic development?

Answer: There are some private sources, such as; Federal Land Bank, Intermediate Credit Associations and the Production Credit Association, which may provide economic aid on Indian reservations. However, they are primarily involved in agricultural related enterprises.

Question: What is the present authorized personnel for the Business Enterprise Development program and what is their record of accomplishment over the past five years?

Answer: There is a total of 20 positions of which only eight are filled. Central Office personnel is composed of two professionals, and there are only four professionals in the Area Offices. We are attaching a data sheet on accomplishments of the program from 1975 through 1980.

Initiative For Forest Management Inventory and Planning

Question: What specific initiative is it that is being deferred?

Answer: The initiative deferred was for $630,000 to provide funds to accelerate current efforts at field installations to secure the essential management tools of aerial photography, forest type and other maps, forest soil surveys, field inventories, environmental assessments, etc. All of these efforts contribute to the derivation of allowable annual cuts and the formulation of management strategies and action guidelines for the development of Indian forest resources.

Question: How will deferral of this initiative affect the quality of BIA forest management?

Answer: The Bureau's forestry program as requested has funds for providing some updated forest inventories and multiple-use forest management plans to properly facilitate the development and utilization of Indian forest resources to optimum levels. Of the 100 reservations or trust properties having a forest resource, about half have current forest inventories and all but a few of these have completed or partially completed inventory analyses. Twenty-four locations have met current manual (53 BIAM) requirements for modern forest inventories. Only two locations presently have multiple-use forest management plans which meet manual requirements. The remaining 76 locations continue to be deficient in forest inventories and 98 reservations continue to operate with no plans or outdated plans. The deferral will delay the initiation of the effort to accelerate the provision of the needed inventories and plans.

Social Services

Question: What effect will the proposed cuts in the CETA public service programs have on the BIA budget request for social services? Has the BIA developed any estimates of the number of Indians who will lose jobs on the reservations? How will these cuts affect the operation of tribal governments? In other words, what kinds of jobs are being lost?

Answer: The proposed cuts in CETA funding will very possibly have an impact on the Bureau's general assistance program. The proposed general assistance funding request did not contemplate these cuts, rather it was based upon CETA funding holding level. However, it is premature to propose a revised program until more actual effects are known. The Office of Management and Budget has advised an estimated job loss of 10,600 in Public Service Employment alone. On-the-job Training, Work Experience, and Youth Employments job loss has not been estimated.

The CETA cuts of Public Service Jobs will also impact upon the operation of tribal governments. The degree will be based on how the tribes have used their CETA Public Service slots. No composite study has been completed on the individual tribal government impact to date.

Road Construction

Question: The Reagan budget cuts $3 million from Road Construction and how would such a cut affect North Dakota?

Answer: Only one road construction project was scheduled by the Aberdeen Area in North Dakota for FY 1982; Fort Berthold Reservation, $40,000 for grade and drain, $50,000 for survey, design and engineering management. This project was still scheduled for FY 1982, after the $3 million cut.

Data of accomplishments of Business Enterprise Development from 1975 through 1980

	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
Number of Technical Assist. Studies	27	34	29	17	14	7
Number of Plants	245	255	260	260	263	264
Total number of Jobs	15,000	15,500	16,000	16,400	16,400	16,500
Number of Entities Assisted	850	950	1,000	1,200	1,296	1,350
Number of Individuals Assisted	1,650	1,875	2,100	3,000	3,150	3,200
Value of Subcontracts Assisted	$13,000,000	$20,000,000	$36,000,000	$39,000,000	$44,000,000	$49,000,000
Estimated number of Jobs created through Subcontract	650	900	1,311	1,927	2,100	2,170
Business Enterprise Development Total Budget	$3,108,000	$3,325,000	$3,265,000	$3,260,000	$3,132,500	$3,132,500

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO

REC'D JUN 11 1981

Honorable William S. Cohen
Chairman, Select Committee
  on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your May 18, 1981 request to provide responses to additional questions as a result of the recent oversight hearing of the Select Committee on Indian Affairs on the Fiscal Year 1982 Indian housing budget.

We have provided responses to your questions in the enclosure.

Very truly yours,

George D. Hipps, Jr.
Associate General Deputy Assistant
  Secretary for Housing

Enclosure

BEST COPY AVAILABLE

Responses to Questions on the FY 1982 Proposed Budget for Indian Housing

Question #1

At the hearing held on March 23, 1981, the HUD panel of witnesses were asked to provide the Committee with answers to the following questions: What is the funded commitment of dollars per unit in the pipeline?

Answer

The average loan authority per unit (Total Development Cost/Unit) for units reserved in FY 1980 using FY 1980 development funds is $71,162. FY 1980 is the most current year for which data is available and all units reserved during FY 1980 are obviously still in the pipeline. Data on the average loan authority per unit for all units in the pipeline is not available without an extensive field survey.

Question #2

Has anything happened in the period of time since the FY 1980 Annual Report of HUD to Congress describing Indian and Alaska Native housing and community development needs that can justify termination of the Indian housing program? Are the needs described in that report still present?

Answer

The Department has determined that no additional housing units will be provided for Indians and Alaskan Natives in FY 1982 because there are still approximately 16,772 units in the pipeline and because the current Indian housing program is afflicted with management problems and high development costs. The Department intends to develop, in conjunction with other Federal agencies involved in Indian housing, a less costly and more effective way of delivering Indian housing. In the meantime, the units in the pipeline can substantially contribute to meeting the unmet need which, as reported recently by the Bureau of Indian Affairs, is approximately 60,000 new units.

Question #3

It was indicated that there are 15,000 units in the pipeline now, that there will be another 5,000 units reserved during FY 1981, and that construction should proceed at a level of 5,000 units for the next four years. What impact will this have on the Indian Housing Authorities?

Answer

Assuming that funds are available to reserve 5,000 units in FY 1981, there should be approximately 16,772 units in the Indian housing pipeline as of 9-30-81. This number is revised upward from a previous estimate of 15,000 units. (If funds are provided to reserve fewer than 5,000 units in FY 1981, there would be a concomitant reduction in the pipeline at the end of the Fiscal Year.)

Assuming 5,000 units are started and 5,000 units are completed during each year, all units will have reached construction shortly after the end of FY 1983 and all units will have been completed shortly after the end of FY 1984.

The effects on the IHAs of their being no units in the production pipeline would include:

(1) A reduction in staff because positions associated with development would no longer be needed.

(2) A greater emphasis on management of units under occupancy.

(3) Somewhat less economic development/employment opportunities to Indian communities provided through IHAs resulting in a loss in rental income and a higher subsidy burden.

Question #4

What has been the Indian Housing Program capability for the last five years? Is it realistic to expect that 5,000 units will go out of the pipeline each year for the next four years?

Answer

The last five years performance in starts and completions has been:

	Starts (Units)	Completions (Units)
FY 1976*	3,507	2,695
FY 1977	3,965	1,299
FY 1978	4,581	2,677
FY 1979	4,599	4,363
FY 1980	4,163	5,379

*Includes the transition quarter.

As noted by the statistics above, there is a trend toward increasing ability to move units through production. We believe that the approximation of 5,000 units being completed each year is reasonable. The Department intends to continue to monitor pipeline progress closely to assure as much as possible the 5,000 annual target is made.

Question #5

Of units reserved in a particular year, what percentage of them have been lost because of inflation?

Answer

From the data available to us, it is not possible to estimate accurately the percentage of units reserved in any given Fiscal Year which, because of inflation, do not get built. Some loss of units, due to inflation, occurs in all assisted housing programs. However, possible unit losses due to inflation, or from delays during the preconstruction and construction phases of development are mitigated by the use of amendment funds. The use of amendment funds has enabled many Indian Housing Authorities (as well as Public Housing Agencies) to construct units that would otherwise be lost.

Question #6

Beginning with FY 1976, what level of funding did HUD receive for the Indian Housing Program?

Answer

HUD's Indian Housing funding level for FY 1976 reflected a statutory minimum set-aside of $15 million in contract authority which was expected to be sufficient to reserve 6,000 units. However, HUD allocated an additional $15.3 million in contract authority (for a total of $30.3 million in contract authority) all of which was used to reserve 6,888 units during FY 1976 and the transition quarter - the period from July 1, 1976 to September 30, 1976 when the timing of the Federal Fiscal Year was shifted to October 1. The Department's funding level for FY 1977 reflected another statutory minimum set-aside of $17 million in contract authority, also for 6,000 units. During FY 1977, HUD allocated an additional $15.7 million in contract authority (for a total of $32.7 million in contract authority) all of which was used to reserve 8,065 units.

Subsequent to FY 1977, there have been no statutory minimum set-asides for Indian housing. Rather, HUD allocated funds from its public housing appropriations to reserve 6,000 units of Indian housing each year. In FY 1978, HUD allocated $31.2 million in contract authority - but only $21.5 million in contract authority was utilized to reserve 4,858 units; in FY 1979, 28.3 million in contract authority was allocated - but only $28.0 million in contract authority was utilized to reserve 5,731 units. During FY 1980, HUD allocated $30.8 million in contract authority for Indian housing - but only $27.8 million in contract authority was utilized to reserve 4,893 units.

Question #7

What kinds of units have been constructed since 1976?

Answer

Indian Housing Authorities have continued to construct mostly single family, detached, frame construction houses. The few semi-detached duplexes and four plexes and multifamily units constructed by IHAs have been normally made available to elderly and handicapped families. The Department estimates that the average HUD financed Indian program house has 5.68 rooms (between 3 and 4 bedrooms) and that it contains approximately 1,185 square feet.

Question #8

Of the total cost per dwelling units of Indian housing for FY 1980, what is the actual construction cost? What is the cost for site improvements? What other costs are included in the total cost per dwelling unit?

Answer

The average Total Development Cost (TDC) per Indian housing dwelling unit in FY 1980 was $71,162. Due to the wide disparity of terrain, climate, and transportation costs, actual construction costs (dwelling construction and equipment) varies widely, especially in Alaska.

(a) From the best projections available to us, the average dwelling construction and equipment cost (DC&E) of a unit costing $71,162 would be approximately $46,250.

(b) Our best projection of the average per unit cost for site improvements is approximately $12,100 - based on a TDC of $71,162.

(c) Other costs included in the total cost per dwelling unit are costs for: planning, administration, site acquisition, relocation (if necessary), demolition (if necessary), interest and carrying charges, non-dwelling facilities, a contingency allowable, insurance premiums, off-site facilities (if necessary), any initial operating deficit, and other costs necessary to develop the unit.

Question #9

What is the average length of time for constructing a single housing unit (from submittal of the application for housing assistance to actual occupancy)? Why does it take so long from application to occupancy?

Answer

The average length of time from program reservation (the point at which an application is approved) to the Date of Full Availability (DOFA) for occupancy for the Indian housing program is 3.1 years. This represents an average of all projects developed since 1975/1976. Data for recently approved projects moving through the pipeline does not presently exist; however, we do know that the average processing time has been going down during the last few years so that the current average is less than 3 years from program reservation to DOFA. The Department's time phase data begins with the program reservation. Data starting with the receipt of the application is not available.

The reason it takes time to move Indian housing units through production is that the development process includes important yet time consuming activities; that is, the housing must be designed, sewer and water systems must be engineered, sites must be chosen, site leases must be obtained from BIA, roads must be built, and the units must be constructed.

Question #10

What were the total administrative costs in FY 1976, 1977, 1978, 1979, and 1980 to staff the Indian Housing Program in each of the HUD regional offices and the national office?

Answer

The following table shows the administrative costs to staff the Indian housing program in each of the HUD Regional Offices.

(Amounts Expressed in Dollars)

Region	FY 1976	Transition Quarter	FY 1977	FY 1978	FY 1979	FY 1980
I	34,700	7,700	29,600	43,300	30,700	16,400
II	36,600	1,900	15,800	80,100	21,900	14,100
III	----	----	----	----	----	----
IV	38,600	5,800	27,600	26,000	30,700	18,800
V	84,800	38,600	155,700	166,700	129,400	152,600
VI	300,800	81,000	295,700	296,600	245,600	317,000
VII	48,200	15,400	88,700	93,100	70,200	49,300
VIII	254,500	67,500	315,400	400,500	348,700	385,100
IX	518,700	160,000	764,700	805,300	833,300	878,200
X	233,300	81,000	372,500	389,700	289,400	396,800
Total	1,550,200	458,900	2,065,700	2,301,300	1,999,900	2,228,300

The administrative costs to staff a National Indian Housing Office are shown below:

FY 1976 & 1977	There was no separate Office of Indian Housing and no data was maintained to indicate the staff years used or the cost.
FY 1978	$102,000 — Even though there was no Office of Indian Housing, there was a cost attributed to staff expenses for Indian housing.
FY 1979	$314,000 -- This includes the cost for three positions which were vacant. The Office of Indian Housing was established.
FY 1980	$278,000 — This includes the cost for two positions which were vacant.

The source of the national data is the Thomas Chart of The Congressional Budget. The source for the regional data is the HUD Regional Employee Time Reporting Systems (RETRS) which reflects staff years used.

Question #11

What were the number of staff-years allocated to the Indian Housing Program in FY 1976, 1977, 1978, 1979, and 1980? What kind of assistance does HUD staff provide the Indian tribes?

Answer

The chart below indicates the number of staff years allocated to Indian housing and the number of staff years used. It includes the regional, as well as national staff.

FY	Staff Years Allocated	Staff Years Used
1976	142.2	81.9
Transition Quarter	33.9	24.3
1977	139.3	104.9
1978	168.6	111.5
1979	191.4	100.1
1980	193.7	104.7

HUD staff provides technical assistance to Indian Tribes and Indian Housing Authorities in the organization of the IHA, development of units and management of the program. This technical assistance includes but is not limited to preparation of the development application and budget, preparation of bid documents, advice on the review of plans and specifications guidance on review of construction progress, training of tribal officials and IHA Commissioners, counseling of homebuyers, general project management and maintenance issues, modernization, and budgeting and accounting practices.

Question #12

What is the average length of time from the time Congress provides authority for Indian housing and HUD approves construction of the units? From the time HUD approves construction to the completion of a housing unit?

Answer

HUD reserves all, or nearly all, of the funds made available to it for Indian housing for a Fiscal Year before the end of that Fiscal Year. The average time from program reservation to construction start is slightly less than two years for all HUD Indian housing projects developed since 1975/1976.

For an answer to the second part of the question, please see the answer to question #9.

Question #13

Has a financial audit ever been conducted on the Indian Housing Program to determine if the funds are being utilized in the most efficient and effective manner? If not, why not? If so, when was the audit performed, who performed it, and what were the findings, conclusions, and recommendations?

Answer

The Department relies primarily upon biennial fiscal audits conducted by Independent Public Accountant (IPA) firms at each IHA to determine if housing funds are used properly. Since March 1976, when the Department assumed the fiscal audit responsibilities from the Bureau of Indian Affairs in the Department of Interior, a substantial number of IHAs have obtained fiscal audits and have taken action to remedy findings which range from inadequate financial controls to programmatic issues such as failure to conduct family reexaminations. In addition, the Office of the Inspector General (OIG) conducts a limited number of audits of HUD sponsors and HUD field offices, including Indian Housing Authorities and Indian Field Offices. OIG has conducted audits at a few IHAs in Region VIII and is now completing an audit of HUD's Denver Indian Programs Office.

Question #14

What kinds of records are maintained by HUD to evaluate the effectiveness of the Indian Housing Program?

Answer

The Department receives copies of IHA annual financial statements covering both Indian development and program operations. The Department also conducts on-site field reviews and audits of program areas relating to occupancy, maintenance, utility systems, and general development and management practices of the Indian Housing Authority's entire operation. Together with the evaluation of these statements and field reports, the Department is able to assess the effectiveness of the Indian Housing Program.

Questin #15

Are Indian housing units designed and constructed to meet the physical conditions and living environments of the individual Indian areas and site situations? If not, why not?

Answer

Indian housing units are designed and constructed to meet the physical conditions and living environments of the individual Indian areas and site situations. The Indian Housing Authority selects an architect to design a project which is compatible with the needs of the families to be served and the cost and property standards limitations imposed by HUD. HUD reviews the plans to ensure that units are cost effective to build and operate. HUD provides technical assistance to IHAs which often includes suggesting alternative materials, based on their experience with other IHAs.

Examples of tailoring the design to meet the physical conditions of the Indian area are shown below:

(1) Materials with high heat transfer resistance values are specified for units in cold areas.

(2) Materials which reflect local custom are used (stucco in the Southwest).

(3) Modular units are used where the construction season is limited.

(4) Wood burning stoves are used as a supplementary heating source in some areas.

Question #16

How are architectural and engineering firms selected for Indian housing projects? How are construction companies selected for Indian housing projects? Have there been any abuses of the appropriate processes for selection of such firms?

Answer

Architectural and engineering firms are selected by IHAs normally through an advertisement procedure requesting firms interested in providing the required service to submit proposals. The IHA selects a qualified firm from among the responsive proposals received. Contracts entered into by the IHA with architectural and engineering firms are subject to HUD approval.

Construction firms must be selected on a competitive basis as described in the Indian Housing Final Rule 24 CFR 805. Construction contracts must be approved by HUD.

In selecting architectural/engineering firms, as well as construction firms, the IHA is required to comply with Section 7(b) of the Indian Self-Determination and Educational Assistance Act which states in part that an IHA, to the greatest extent feasible, provide a preference to Indian firms in the award of contracts and subcontracts.

HUD Field Offices monitor for abuses in the Indian housing program by their review and approval of contracts for the design and construction of Indian housing units. The Department has had a number of concerns regarding the work activities carried out by selected firms; however, we are not aware of any substantial abuse of the selection processes.

Question #17

Please trace the process an Indian Housing Authority must go through from submission of an application for housing assistance to actual occupancy. Please provide examples of or instructions for the preparation of any documentation which HUD requires of the Indian Housing Authority.

Answer

Indian housing can be developed under five separate methods. The IHA chooses the method and HUD concurs in the selection. Part I below is a summary explanation of each development method and Part II a step-by-step explanation of the conventional construction method from application to occupancy. The conventional development method is the method most frequently used by Indian Housing Authorities.

PART I

1. Conventional Method. Under the Conventional Method, the IHA, after HUD approval of the plans and specifications, advertise for contractors to build the project and the award is made to the lowest, responsive bidder subject to HUD concurrence. The contractor is required to provide performance and payment bonds, or a lesser percentage or other security approved by HUD. The contractor receives progress payments during construction, and a final HUD approved payment upon completion in accordance with the contract.

2. Turnkey Method. Under the Turnkey Method, the IHA advertises for developers to submit proposals to build a project described in the IHA's Invitation for Proposals. The Invitation for Proposals may, when approved by HUD, prescribe the sites to be used. The IHA selects, subject to HUD approval, the best of the proposals received, taking into consideration price, design, the developer's experience and other evidence of the developer's ability to complete the project. After HUD approval of the proposal selected by the IHA, the working drawings and specifications are agreed to by the developer. HUD, the developer and the IHA enter into a Contract of Sale. Upon completion of the project in accordance with the Contract of Sale, the IHA purchases the project from the developer. The IHA provides inspection services by an architect, engineer or other qualified person. The IHA may require the developer to furnish performance and payment bonds or other security as may be acceptable.

3. Modified Turnkey. Under this method, the procedure is the same as under the Conventional Method except that the developer receives no progress payments from the IHA and is responsible for acceptable completion before receiving any payment from the IHA.

4. Acquisition Method. Under the Acquisition Method, the IHA acquires existing housing which may need only minor repairs or may require substantial rehabilitation. Repair or rehabilitation may be accomplished prior to acquisition using Turnkey procedures or after acquisition, as authorized by the HUD Field Office. This method is limited in its applicability, and is generally used in urban areas where there are a large number of structurally sound, vacant units for sale.

5. Force Account Method. Under the Force Account Method an IHA performs construction or rehabilitation in a manner similar to a contractor, using a work force entirely employed by and under the supervision of the IHA or in combination with contracts for those portions of the work which can be better or more economically performed by an independent contractor. All construction work in excess of $2,000, is subject to Davis-Bacon wage requirements. In new construction the Force Account Method may only be used in exceptional cases and with approval of the Assistant Secretary for Housing. The tribe must agree to pay any costs in excess of the HUD approved development costs and show that it has the financial capability to meet this obligation.

PART II

The following is an outline of the steps in the Conventional Development process. Information on each step in this process is included in the Interim Indian Housing Handbook.

(1) IHA submits application for housing.

(2) Upon HUD approval of application, the IHA executes an agreement with the architect (HUD-51915). If sites are known, information may be submitted at this time.

(3) Field Office reviews and approves HUD-51915.

(4) HUD chairs a Project Planning Conference to determine IHS/BIA involvement and to review preliminary planning process.

(5) IHA and architect select site(s) and submit Preliminary Site Report, (HUD-3188).

(6) Field Office reviews and issues Notification of Tentative Site Approval indicating what additional studies or information are required.

(7) IHA requests final site approval.

(8) Field Office issues final site approval.

(9) IHA architect prepares Schematic Design Documents and Estimate of Project Construction Cost.

(10) HUD reviews and approves Schematic Design Documents.

(11) HUD chairs Schematic Design Conference - with Memorandum of Understanding and approval letter to IHA.

(12) IHA prepares Development Program (HUD-53045) and Development Cost Budget (HUD-53045A).

(13) HUD approves the Development Program and Budget and notifies the IHA.

(14) HUD prepares Annual Contributions Contract and supporting documents.

(15) IHA executes ACC.

(16) IHA Architect begins preparing working plans and specifications and Analysis of Proposed Main Construction Contract, (HUD-52396).

(17) IHA submits to HUD the working plans and specifications, (HUD-52396) and the Instructions to Bidders, (HUD-5369).

(18) Field Office reviews and authorizes IHA to issue invitation for bids.

(19) IHA advertises and receives bids.

(20) IHA submits Contract Award documents to HUD.

(21) HUD reviews and approves Contract Award documents.

(22) IHA notifies contractor of successful bid

(23) IHA executes contract documents.

(24) HUD Architect reviews contract documents, insurance and bonds.

(25) Pre-construction Conference is held to acquaint project participants with contract administrative requirements.

(26) IHA issues Notice to Proceed and construction begins.

(27) Contractor submits to the IHA a Request for Acceptance of a Subcontractor (Form HUD-5371) to assure that Subcontractor is not barred from work on HUD projects.

(28) Contractor submits designation of paymaster responsible for submission of payroll reports.

(29) IHA designation of construction inspector.

(30) IHA submits to HUD Schedule of Amounts for Contract Payment. This schedule outlines the work to be completed by specific dates and the amount of payment to be made.

(31) The contractor shall prepare a construction progress schedule, shop drawings and material samples for IHA approval.

(32) HUD conducts project inspections while work is in progress and performs a final inspection with IHA, Architect, Contractor and BIA or IHS, if applicable.

(33) Final Settlement Document prepared and reviewed by the IHA and approved by HUD.

(34) For Mutual Help projects, the homebuyer inspects the units.

(35) The unit is ready for occupancy.

The Interim Indian Housing Handbook provides examples and instructions of the forms which are required by Indian Housing Authorities. We have attached a copy of the Handbook for your information.

Question #18

It has been indicated that with the elimination of the Indian Housing Program in the revised FY 1982 budget that HUD would be re-evaluating methods of providing housing on Indian reservations.

a) What planning has been done to work toward the goal of a new approach to Indian housing?

b) If no planning has yet been initiated, what time frame is anticipated for such planning?

c) Is it anticipated that the Indian community will be consulted on a new approach to Indian housing? If not, why not? If so, how will such consultation be accomplished?

Answer

There are two projects underway to evaluate the methods for providing housing on Indian reservations. First, in response to the House Report of the 1980 Housing legislation, the Department is preparing a report on the appropriateness of the Mutual Help approach, which will include recommendation for improvements, revisions and alternatives for meeting the housing assistance needs of Indians and Alaskan Natives. As specified in the House Report, this effort will be done in conjunction with Tribal representatives and will be transmitted to Congress in October 1981. Second, OMB has indicated they intend to establish a working group, composed of representatives of HUD, BIA, Farmers Home, Health and Human Services, including Indian Health Service to design a better method for delivering Indian housing. We understand this effort would be completed with sufficient lead time to propose a new program before the current pipeline of units is exhausted.

Question #19

Please compare the Indian Housing Program to other public assisted housing components with respect to percentage of budget authority rescinded in FY 1981, cuts in the FY 1982 revised budget, numbers of units in the pipeline, problems encountered by local housing authorities in providing housing including management problems and collection problems.

Answer

The following is a comparison with non-Indian public housing.

(a) Percentage of budget authority rescinded in FY 1981.

(1) The original FY 1981 budget provided funds for 34,000 non-Indian public housing units. The revised 1982 budget provides funds for 28,000 units, a reduction of 17.6%.

(2) The original 1981 budget provided funds for 6,000 Indian housing units. The revised 1981 budget provides funds for 5,000 units, a reduction of 16.6%. Subsequently, the Senate and House Appropriations Subcommittees have considered reducing the Administration's proposal: the Senate has proposed funds for 4,000 Indian housing units (a reduction of 33.3%) and the House funds for 2,400 units (a reduction of 60%).

(b) Cuts in the FY 1982 revised budget.

(1) The original 1982 budget provided funds for 36,000 non-Indian public housing units. The revised FY 1982 budget provides funds for 24,000 units, a reduction of 33%.

(2) The original 1982 budget provided funds for 4,000 Indian housing units. The revised FY 1982 budget provides funds for zero units.

(c) Number of units in the pipeline.

(1) The anticipated non-Indian public housing development pipeline at the end of FY 1981 is 81,000 units.

(2) The anticipated Indian housing pipeline at the end of FY 1981 is 16,772 units.

Indian Housing Authorities administer HUD-assisted housing programs within a different environment than that of most Public Housing Authorities, in that, the IHA's program is administered for the most part in remote or extremely rural areas; under the influence of Tribal governments that often change leadership frequently; and, by Boards of Commissioners who are only now beginning to fully understand the Indian housing policies and procedures that PHAs have learned for well over 40 years. (The IHAs having had only 10-15 years experience.) Given this basic difference between PHAs and IHAs, IHAs have a more frequent occurrence of audit findings dealing with:

- accounting and recordkeeping deficiencies
- cash handling and investment practices
- budgetary overruns
- high tenant accounts receivables
- development cost deficiencies

Question #20

What approval or denial authority does HUD acquire in the Annual Contributions Contract relating directly or indirectly to the Indian Housing Authority's contracts: the Indian Housing Authority's direct subcontracts, the architectural and engineering contract, or the construction contract?

Answer

The Department reviews and approves certain actions in the development and operation of the IHA's housing program as specifically identified in the Annual Contributions Contract and program regulations. Contracts related to the development of projects are required to be submitted for review and approval by the HUD Field Office to determine compliance with the ACC and program regulations.

Principally, main construction contracts, architectural and engineering contracts, and other professional contracts are reviewed and approved by HUD. The selection of subcontractors obtained by a general contractor must be approved by the IHA.

Question #21

What happens to the proposed housing units and the obligated funds should a project be suspended or cancelled? How are their numbers reflected in the Indian housing "pipeline"?

Answer

Should an Indian housing project be cancelled, the funds that were reserved (obligated) are recaptured by HUD for possible reuse in another project. Current HUD instructions to its Field Offices permit those offices to reuse funds from cancelled projects without Headquarters permission only if funds for the project were reserved during that same Fiscal Year. Funds recaptured from projects reserved in previous Fiscal Years may be reused to reserve new projects if permission is obtained from HUD Headquarters and if there is corresponding budget and loan authority available.

Should a project be suspended, the monies remain obligated until such time as the project is cancelled. Projects in a suspended processing status are still considered as part of the Indian Housing "pipeline". Only when a project is officially cancelled is it "purged" from the Indian housing "pipeline."

Question #22

What, if any, changes have been developed to increase the effectiveness of the delivery system of units to the Indian Housing Authorities?

Answer

The Department has been making a substantial effort to improve the delivery system of units to Indian Housing Authorities. Described below are the three major activities in this area.

(1) Reorganization of Field Structure

The Office of Indian Housing has initiated several actions to improve the effectiveness of the delivery system for Indian housing units. In FY 1980 HUD authorized the reorganization of HUD services to Indian tribes and Indian Housing Authorities. This reorganization created the current structure of six Field Offices to work in Indian Programs.

(2) Training

HUD has provided training to both HUD field staff and the Indian Housing Authorities. Seven training courses were held throughout the country on the Indian Housing regulations, the coordination of services with BIA and IHS and program implementation as discussed in the Indian Housing Handbook. Additional training has been conducted by Headquarters at two of the HUD Field Offices. The Indian Housing office has instituted a program of conference call training sessions to supplement the departmental training funds available. Field Offices are conducting training through special sessions and meetings held by Indian Housing Authority organizations. This emphasis on training will improve the ability of HUD and IHA staff to administer the Indian housing program.

(3) Handbook Revision

The Department has revised the Indian Housing Handbook to make it consistent with the new regulations issued November 6, 1979. This Handbook will contain revised forms which reduce the burdenhour requirements on the IHA. It is anticipated that the Handbook and forms will be issued in FY 1981.

In addition to these three initiatives the Department is currently evaluating ways to streamline the regulations and requirements imposed on IHAs.

Question #23

Of the units in the Indian housing "pipeline" and the units to be reserved in FY 1981, how many actual units can be constructed with this amount of budget authority using today's construction costs? Excluding 5,000 units to be constructed in FY 1981, please project the actual number of units which can be constructed with the budget authority available given the delays in construction which routinely occur and the inflation factor in construction costs over the period of time to exhaust such budget authority.

Answer

The estimate of 16,772 units (please see the answer to Question #5 for a discussion of the Indian housing pipeline at the end of this Fiscal Year) is an estimate of "active" units. Not included in this estimate are approximately 1,000 units which, for one reason or another, are expected to be cancelled. Therefore, the 16,772 units are moving through the development process expeditiously and there is every prospect that they will be completed. It should be noted that the prediction that all 16,772 units will be completed is partially predicated on the availability of amendment funds to increase the reserved funds on projects where inflation, or some other contingency, makes that necessary.

Discounting the 5,000 units expected to be completed this Fiscal Year and assuming that funds are available to reserve 5,000 new units in FY 1981, the Department projects that 16,772 units of Indian housing can be constructed.